

**LEGISLATIVE
ENACTMENTS**

(Consolidated 1980)

Volume - 5

(S-Z)

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CHAPTER 123

SURVEYORS

Ordinances AN ORDINANCE TO PROVIDE FOR THE LICENSING OF SURVEYORS.

Nos. 15 of 1889,
8 of 1897,
10 of 1908,
26 of 1909,
28 of 1916,
20 of 1930,

Act
No. 28 of 1950.

[31st October, 1889.]

- | | | | |
|---|--|--|---|
| Short title. | <p>1. This Ordinance may be cited as the Surveyors Ordinance.</p> | <p>3. No survey or plan and no copy or tracing of any survey or plan, purporting to have been made or prepared by any land surveyor after the commencement of this Ordinance, shall be receivable in evidence in any civil court in Sri Lanka unless it has been made or prepared by a permanently licensed surveyor or by a surveyor holding an annual licence and has not been declared defective by the Surveyor-General.</p> | <p>Admissibility of plans or tracings as evidence in civil proceedings.</p> |
| Who can practise as surveyor or leveller. | <p>2. (1) No person shall practise or attempt or profess to practise as a surveyor in any part of Sri Lanka unless—</p> <p>(a) he is a certified surveyor as defined in section 19, and his registration is still in force; or</p> <p>(b) he is a permanently licensed surveyor as defined in section 19, and his licence is still in force ; or</p> <p>(c) he is the holder of an annual licence to practise as a land surveyor or as a surveyor and leveller granted by the Surveyor-General in manner hereinafter appearing.</p> <p>(2) No person shall practise or attempt or profess to practise as a leveller in any part of Sri Lanka unless—</p> <p>(a) he is a permanently licensed leveller; or</p> <p>(b) he is a permanently licensed surveyor who holds a licence as surveyor and leveller; or</p> <p>(c) he is the holder of an annual licence from the Surveyor-General authorizing him to practise as a leveller.</p> | <p>4. The Surveyor-General may from time to time grant annual licences to practise as a land surveyor or' as a leveller or as a surveyor and leveller to persons of good character who have passed the prescribed examination in surveying or in levelling or in surveying and levelling.</p> <p>5. Such annual licences may be in the form contained in Schedule B. They shall remain in force until the thirty-first day of December next following the date when the licence is granted; and, subject to the provisions of section 8, shall be renewable annually. A fee of five rupees payable in stamps shall be charged on the issue and renewal of each annual licence.</p> | <p>Annual licences.</p> <p>Form and particulars of annual licence.</p> |
| | | <p>6. (1) Persons possessing the qualifications mentioned in Schedule A shall be entitled, on production of evidence of good character and on payment of the prescribed fee, to annual licences, without passing an examination.</p> <p>(2) The Minister may from time to time by Notification add to the qualifications mentioned in Schedule A any further</p> | <p>Exemption from examination.</p> |

qualifications which in his opinion afford sufficient proof of fitness to practise as a land surveyor, or as a surveyor and leveller, or may otherwise amend the said Schedule;

Provided that no such amendment shall affect the right of any person who at the time of such amendment is entitled to an annual licence without examination to continue so entitled.

Minister may make regulations.

7. (1) The Minister may from time to time make, and when made may revoke or vary, regulations for the holding and conduct of examinations of candidates for annual licences and for carrying out the purposes of this Ordinance.

(2) The regulations made under the preceding subsection may provide, amongst other things, for—

- (a) appointing examiners and fixing and giving due notice of the time and place at which examinations shall be held;
- (b) prescribing the subjects in which candidates will be examined ;
- (c) prescribing the fees payable, on examination;
- (d) specifying the evidence of character which will be required of candidates;
- (e) publishing the names of certified surveyors, permanently licensed surveyors, levellers, and surveyors and levellers, and the names of persons to whom annual licences to practise as land surveyors or as levellers or as surveyors and levellers have been granted;
- (f) publishing the names of surveyors whose registration or licence, or both, has or have been cancelled or suspended or not renewed ;
- (g) prescribing the manner in which surveys are to be made, the manner and form in which the plans, books and other records pertaining to a survey are to be prepared, and the details to be inserted in such plans, books and records:

(h) requiring the transmission to the Surveyor-General of plans, books and other records pertaining to a survey and fixing the time within which they are to be so transmitted;

(i) defining the degree of accuracy to be attained in surveys and the limit of error to be allowed ;

(j) prescribing the steps to be taken for testing the accuracy of surveys and providing for the correction of any inaccuracies that may be discovered.

(3) All regulations made under this Ordinance shall be laid, as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament, and shall be brought before Parliament at the next subsequent meeting held thereafter by a motion that the said regulations shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said regulations are disapproved by Parliament, such regulations shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder; and such regulations, if not so disapproved, shall be deemed to be valid. Every such disapproval shall be published in the Gazette.

8. (1) The Surveyor-General may cancel an annual licence or refuse to renew an annual licence if after due inquiry he is Satisfied—

Power of Surveyor-General to cancel or refuse renewal of licence.

(a) that the licensee has been convicted of any offence, whether in his capacity of land surveyor, or surveyor and leveller, or otherwise, which, in the opinion of the Surveyor-General, renders him unfit to be entrusted with the duties of a surveyor or surveyor and leveller;

(b) that the licensee has been guilty of gross misconduct in the discharge of his duties as a land surveyor or surveyor and leveller; or

(c) that he has shown such incompetence or carelessness in the discharge of his duties as a land surveyor or surveyor and leveller that he ought not, in the interests of the public, to be entrusted therewith.

(2) The Surveyor-General shall not cancel or refuse to renew a licence until he has informed the licensee in writing of the reasons for his opinion that such licence should be cancelled or not renewed, and has afforded him reasonable opportunity of adducing any evidence, oral or documentary, on which he may rely.

The Surveyor-General shall record any evidence which may be adduced, and also his decision and his reasons therefor, and the applicant shall be entitled to a copy of such record.

(3) Any person aggrieved by the cancellation or refusal of the Surveyor-General to renew his licence may appeal to the Minister within thirty days from the date when the Surveyor-General's decision is communicated to him, and the decision of the Minister upon any such appeal shall be final and conclusive.

(4) When the Surveyor-General has good reason to believe that the holder of an annual licence has been convicted of such an offence, or has been guilty of such misconduct, or has shown such incompetence or carelessness as are mentioned in subsections (1) (a), (1) (b), or (1) (c), the Surveyor-General may, by notice in writing, suspend the licence of such person for a period not exceeding three months pending inquiry under this section.

Cancellation or suspension of registration or licence.

9. (1) Whenever it shall be made to appear to any District Court within whose jurisdiction any certified surveyor or permanently licensed surveyor resides or carries on business, that such surveyor has been guilty of gross misconduct in the discharge of his duties as a surveyor, or that he has shown such incompetence or carelessness in the discharge of the said duties, that he ought not in the interests of the public to be entrusted therewith, such court may, after a summary investigation of the matter of complaint, which may be

preferred by the Surveyor-General or by any aggrieved person, cancel or suspend for such period as the court thinks proper the registration or licence of such surveyor, and award costs as it thinks fit. Every order under this section shall be subject to an appeal by either party to the Court of Appeal, in like manner as any other order of such District Court,

(2) (a) Every such order of cancellation or suspension, unless the same be set aside on appeal, shall be communicated by the District Court to the Surveyor-General, who shall give effect thereto; and, where any registration or licence has been cancelled or suspended, the person to whom the registration or licence relates shall forthwith return his certificate of registration or licence to the Surveyor-General. Every such suspension or cancellation shall be published in the manner provided by the regulations made under subsection (2) of section 7.

(b) Any certified surveyor or permanently licensed surveyor, whose registration or licence has been cancelled or suspended as aforesaid, failing without reasonable excuse, proof whereof shall lie on him, to return his certificate of registration or his licence within ten days from demand made by the Surveyor-General shall be guilty of an offence, and shall be liable to a fine of one hundred rupees, and an additional fine of ten rupees per day in case of a continuing offence. Such offence shall be triable summarily by a Magistrate's Court, anything in the Code of Criminal Procedure Act or any other law to the contrary notwithstanding.

(c) Where any such registration or licence has been suspended, the Surveyor-General shall return the certificate or licence to the surveyor after the period of suspension has expired.

10. (1) Whenever any irregularity, error or omission is alleged to have been discovered in any plan, book or other record pertaining to a survey or whenever it is alleged that a surveyor has committed any irregularity in the discharge of his duties, the Surveyor-General may by notice in writing to the surveyor concerned require

Inquiries into irregularities, errors and omissions in surveys, &c.

him to explain in writing the circumstances in which the alleged irregularity, error or omission occurred and state his justification therefor, if any.

(2) If after considering any explanation given by the said surveyor, the Surveyor-General thinks that there are reasonable grounds for holding an inquiry into his conduct, he shall hold an inquiry.

(3) The Surveyor-General may, for the purposes of any such inquiry, by notice in writing require such surveyor to produce for his inspection or for the inspection of any other officer of his department any plans, books or other writings made by the surveyor in the discharge of his duties ; and, after giving the surveyor an opportunity to justify the alleged irregularity, error or omission, shall decide whether in fact an irregularity, error or omission has occurred or not.

(4) If the surveyor admits the irregularity, error or omission, or if after the inquiry it is decided that an irregularity, error or omission has occurred, the Surveyor-General may by notice in writing require the surveyor to correct the said irregularity, error or omission in the plan, book or other record pertaining to the survey and to take such other steps as he may direct for rectifying the consequences of the said irregularity, error or omission.

(5) Where in the course of any such inquiry, the Surveyor-General finds as a fact that the plan of any land fails to represent it or misrepresents it to such an extent that damage or loss might result to any person who is or may become interested therein, the Surveyor-General may give notice of such fact to the owner of the land and declare the said plan and all plans based on it to be defective.

(6) A surveyor who without reasonable excuse fails to comply with any requirement or direction issued to him under this section by the Surveyor-General, shall be guilty of an offence and shall be liable on conviction thereof to a fine not exceeding fifty rupees.

(7) In this section, the -word " surveyor " includes a certified surveyor, a permanently

licensed surveyor, a permanently licensed leveller, an authorized surveyor, or the holder of an annual licence granted under this Ordinance to practise as a land surveyor or as a leveller or as a surveyor and leveller.

- 11.** (1) If any person not being—
- (a) a certified surveyor whose registration IS Still in force ; Or
 - (b) a permanently licensed surveyor whose licence is still in force; or
 - (c) the holder of an annual licence as a land surveyor or as a surveyor and leveller,

Penalty for practising as surveyor or leveller without registration or licence.

practises or attempts or professes to practise as a surveyor he shall be guilty of an offence, and shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on every subsequent conviction to a fine not exceeding five hundred rupees.

- (2) If any person not being either—
- (a) a permanently licensed leveller or surveyor and leveller whose licence is still in force; or
 - (b) the holder of an annual licence as a leveller or as, a surveyor and leveller,

practises or attempts or professes to practise as a leveller he shall be guilty of an offence, and shall be liable to the penalties prescribed by subsection (1).

12. The Surveyor-General, on being satisfied that any person is competent to plot a survey plan and to compute the area of a survey plan, may issue to such person a certificate authorizing him to practise as a draughtsman under this Ordinance, and, with the sanction of the Minister, may make rules regulating—

Surveyor-General may authorize any person to practise as a draughtsman.

- (a) the examination or other method of determining the qualifications of persons applying for such certificates;
- (b) the charging of fees in respect of such examination and certificates;
- (c) the cancellation or suspension of such certificates.

Authorized surveyor or draughtsman only may work for an authorized surveyor.

13. (1) It shall not be lawful for any person not being an authorized surveyor—

- (a) to make any survey for the use of any authorized surveyor; or
- (b) unless he is an authorized draughtsman, to plot a survey plan or compute the area of a survey plan for the use of any authorized surveyor.

Penalty'

(2) Any person acting in breach of this section shall be guilty of an offence, and shall be liable to a fine not exceeding one hundred rupees,

What acts of authorized surveyor deemed to amount to gross misconduct in the discharge of his duty.

14. Any authorized surveyor who—

- (a) deposes the making of any survey to any person who is not an authorized surveyor; or
- (b) deposes the plotting of a survey plan or the computing of the area of a survey plan to any person who is neither an authorized surveyor nor an authorized draughtsman ; or
- (c) signs any survey plan the survey of which was made by a person who is not an authorized surveyor; or
- (d) signs any survey plan which has been plotted or the area of which has been computed by a person who is neither an authorized surveyor nor an authorized draughtsman,

shall be deemed to be guilty of gross misconduct in the discharge of his duties within the meaning of sections 8 and 9 of this Ordinance.

Saving as to employment of draughtsman.

15. Nothing contained in this Ordinance shall be deemed to preclude the employment of a draughtsman to draw up plans after they have been plotted and their area computed by an authorized surveyor or by an authorized draughtsman.

Plan shall not be deemed to be incorrect by reason of any failure to observe regulations.

16. (1) No survey plan shall be deemed to be incorrect or irregular merely by reason of any failure on the part of the surveyor who made or prepared the plan to observe any regulations made under this Ordinance

regarding matters of form or regarding the proper transmission to the Surveyor-General of documents connected with' the survey on which the plan was made or prepared-

(2) Neither the Government nor any officer thereof shall be liable for any defective survey performed by a surveyor notwithstanding that a plan, book or other record pertaining to it has been accepted as in order by the Surveyor-General.

*18. Nothing hereinbefore contained shall apply to any land surveyor for the time being in the service of the Ceylon Survey Department, or shall prejudicially affect the operation of any existing or future enactments relating to plans or surveys purporting to be signed by the Surveyor-General or any officer on his behalf.

Government surveyors and Surveyor-General.

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

" authorized draughtsman" means a person holding a certificate issued to him by the Surveyor-General under section 12 of this Ordinance ;

" authorized surveyor " means a surveyor authorized under this Ordinance to practise as a surveyor;

" certified surveyor " means a person who, before the 1st day of February 1890, was registered as a surveyor by the Surveyor-General or by the Chief Surveyor of the province in which he resided;

" permanently licensed leveller " means a person who holds a licence as leveller issued before the said date;

" permanently licensed surveyor " means a person who holds a licence as a surveyor or as a surveyor and leveller issued before the 1st day of October, 1909.

* Section 17 is omitted, as the references therein are to lapsed or repealed enactments.

1. Members of the Institution of Civil Engineers, England, or holders of such qualifications as are accepted by the Institute of Civil Engineers in lieu of examination for associate membership.
 2. Members of the Institution of Civil Engineers, Ireland,
 3. Associate Members of the Institution of Civil Engineers, England.
 4. Holders of diplomas in Civil Engineering issued by any of the English, Irish, Scotch, or Indian Universities.
 5. Holders of diplomas issued by the Royal Indian Engineering College, Cooper's Hill.
 6. Persons who have served, under articles of indenture, and for a period of not less than three years, a Member or Associate Member of the Institution of Civil Engineers, England, or a Member of the Institution of Civil Engineers, Ireland, or Civil Engineer, or Land Surveyor in private practice in Great Britain or Ireland, and who holds certificates of proficiency in surveying.
 7. Holders of certificates of proficiency in surveying from the Executive Officer or a Divisional Officer of the Royal Engineers employed on the Ordnance Survey of the United Kingdom or from the Director or other principal officer of the Revenue Survey of India.
 8. Fellows and Professional Associates of the Surveyor's Institution, London, who, in the opinion of the Surveyor-General, are qualified to practise in Sri Lanka.
 9. Every person who has served in the Survey Department as—
 - (1) Surveyor-General, or
 - (2) Deputy Surveyor-General, or
 - (3) Assistant Surveyor-General, or
 - (4) a Superintendent of Surveys, or
 - (5) an Assistant Superintendent of Surveys, or
 - (6) a Special Grade Surveyor, or
 - (7) a First Grade Surveyor, or
 - (8) a Second Grade Surveyor for a period of more than fifteen years, or
 - (9) a Second Grade Surveyor for a period of more than ten years and passed the Junior Examination of the Survey Department;
- Provided, however, that any of the periods referred to in sub-paragraphs (8) and (9) may, in exceptional cases, be reduced to a shorter period by the Minister on the recommendation of the Surveyor-General.
10. All persons who have been engaged upon survey work for over fifteen years in one or more Government Departments, or in the service of a Municipal Council, or the River Valleys Development Board, or who have served five years and over as upper subordinates in the Irrigation Department, and are, in the opinion of the Surveyor-General proficient in land surveying or land surveying and levelling.
 11. All persons who have been engaged upon survey work in the Survey Department from a date previous to the 18th day of July, 1917, and who have put in ten years or more of such service, and who are, in the opinion of the Surveyor-General, proficient in land surveying or land surveying and levelling.
 12. All persons who have been engaged upon survey work in the Survey Department from a date previous to the 18th day of July, 1917, and who have passed the Junior Examination previous to such date, and who are, in the opinion of the Surveyor-General, proficient in land surveying or land surveying and levelling.
 13. Any person referred to in paragraph 9 who has been declared medically to be unfit for service in the Survey Department, but who, in the opinion of the Surveyor-General after such medical examination as the Surveyor-General considers necessary, is fit to practise as a licensed surveyor.
 14. Holders of a diploma of the Institute of Surveying and Mapping, Diyatalawa, who, in the opinion of the Surveyor-General, have successfully completed a period of apprenticeship of three years in the Survey Department,

SURVEYORS

[Cap. 123

SCHEDULE B

FORM OF ANNUAL LICENCE TO PRACTISE AS A LAND SURVEYOR OR AS A LEVELLER
OR AS A SURVEYOR AND LEVELLER

[Section 5.1

I, Surveyor-General of Sri Lanka, do hereby authorize and license.....
of, to practise as a Surveyor (or as a Leveller or as a Surveyor and Leveller) in Sri Lanka.

This licence expires on the Thirty-first December, 19.....

.....
Surveyor-General.

The..... day of..... 19.

CHAPTER 141

SOCIETIES

Ordinances AN ORDINANCE TO MAKE PROVISION FOR THE REGISTRATION OF MUTUAL,
 Nos. 16 of 1891, PROVIDENT AND OTHER SOCIETIES.
 17 of 1926,
 14 of 1932,
Act
 No. 55 of 1949.

[13th December, 1891.]

- Short title. **1.** This Ordinance may be cited as the Societies Ordinance. officer in the department of the Registrar of Companies as may be authorized by the Registrar of Companies to discharge the duties of the Registrar under this Ordinance;
- Interpretation. **2.** In this Ordinance, if not inconsistent with the context, the following terms shall have the meanings hereinafter respectively assigned to them;—
- " amendment of rule " shall include a new rule and a resolution rescinding a rule;
 - " the committee" shall mean the committee of management or other directing body of a society;
 - " meeting " shall include (where the rules of a society so allow) a meeting of delegates appointed by members;
 - "officer" shall extend to any trustee, treasurer, secretary, member of the committee, manager, or servant other than a servant appointed by the committee of a society;
 - " persons claiming through a member" shall include the heirs, executors, administrators, and assigns of a member, and his nominees, where nomination is allowed;
 - " property " shall mean all movable and immovable property (including books and papers);
 - " registered society " shall mean a society registered or deemed to be registered under this Ordinance;
 - " Registrar" means the Registrar of Companies, and includes any such
- rules" shall mean rules for the time being.
- 3.** The following societies may be registered under this Ordinance;—
- (a) societies (herein called " mutual provident societies ") established for the object of promoting thrift, of giving relief to members in times of sickness or distress, of aiding them when in pecuniary difficulties, and for making provision for their widows and orphans:
 - (b) societies for any purpose which the Minister may, by notification in the Gazette, authorize as a purpose to which the powers and facilities of this Ordinance ought to be extended (herein called " specially authorized societies").
- 4.** The Minister may limit the application of this Ordinance as respects specially authorized societies to such of the provisions herein contained as may be specified in the notification authorizing the registration of any such society. Limited application of the Ordinance.
- 5.** With respect to the registry of societies the following provisions shall have effect:— Registry of societies.

- (1) No society can be registered under this Ordinance which does not consist of seven persons at least, and has not a subscribed capital of at least ten thousand rupees.
- (2) For the purpose of registry an application to register the society, signed by seven members and the secretary, and two written or printed copies of the rules, shall be sent to the Registrar.
- (3) No society shall be registered under a name identical with that under which any other existing society is registered, or so nearly resembling such name as to be likely, in the opinion of the Registrar, to deceive the members of the public as to its identity; and no society shall change its name without sanction of the Registrar, or otherwise than as hereinafter provided.
- (4) The words " Society, Limited " shall be the last words in the name of every society registered under this Ordinance.
- (5) The Registrar, on being satisfied that a society has complied with the provisions as to registry in force under this Ordinance, shall issue to such society an acknowledgment of registry.
- (6) If the Registrar refuses to register any society, or any rules, the society may appeal from such refusal to the Court of Appeal.
- (7) If the refusal of registry be overruled on appeal, an acknowledgment of registry shall thereupon be given to the society by the Registrar.
- (8) The acknowledgment of registry shall be conclusive evidence that the society therein mentioned is duly registered, unless it be proved that the registry of the society has been suspended or cancelled.
6. With respect to the cancelling or suspension of registry the following provisions shall have effect:—
- (1) The Registrar may cancel the registry of a society, by writing under his hand—
- (a) if he thinks fit, at the request of a society, to be evidenced in such manner as he shall from time to time direct;
- (b) with the approval of the Minister, on proof to his satisfaction that an acknowledgment of registry has been obtained by fraud or mistake, or that a society exists for an illegal purpose, or has wilfully, and after notice from the Registrar, violated any of the provisions of this Ordinance, or has ceased to exist.
- (2) The Registrar in any case in which he might, with the approval of the Minister, cancel the registry of a society, may suspend the same, by writing under his hand, for any term not exceeding three months, and may, with the approval of the Minister, renew such suspension from time to time for the like period.
- (3) Not less than two months' previous notice in writing, specifying briefly the ground of any proposed cancelling or suspension of registry, shall be given by the Registrar to a society before the registry of the same can be cancelled (except at its request) or suspended; notice of every cancelling or suspension shall be published in the Gazette as soon as practicable after the same takes place.
- (4) A society may appeal from the cancelling of its registry or from any suspension of the same which is renewed after six months, in manner herein provided for appeals from the Registrar's refusal to register.

Effect of cancelling or suspension.

(5) A Society whose registry has been suspended or cancelled shall, from the time of such suspension or cancelling (but if suspended, only whilst such suspension lasts, and subject also to the right of appeal hereby given), absolutely cease to enjoy as such the privileges of a registered society, but without prejudice to any liability actually incurred by such society, which may be enforced against the same as if such suspension or cancelling had not taken place.

(1) Every society shall—

(a) have a registered office to which all communications, and notices may be addressed, and send to the Registrar notice of the situation of such office and of every change therein;

(b) paint or affix and keep painted or affixed its name on the outside of every office or place in which the business of the society is carried on, in a conspicuous position, in letters easily legible, and have its name engraven in legible characters on its seal, and have its name mentioned in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of such society, and in all bills of parcels, invoices, receipts, and letters of credit of the society;

(c) once at least in every year submit its accounts for audit to a public auditor appointed as herein mentioned, who shall have access to all the books and accounts of the society, and shall examine the general statement of the receipts and expenditure, funds and effects, of the society, and verify the same with the accounts and vouchers relating thereto, and shall either sign the same as found by him to be correct, duly vouched, and in accordance with law, or specially report to the society in what respects he finds it incorrect, unvouched, or not in accordance with law;

(d) once in every year before the first day of June send to the Registrar a general statement (to be called the return) of the

Rules and amendments.

7. With respect to the rules of societies the following provisions shall have effect:—

Provisions to be contained in rules.

(1) The rules of every society sent for registry shall contain provisions in respect of the several matters mentioned in the Schedule.

Amendments to be registered.

(2) No amendment of a rule made by a registered society shall be valid until the same has been registered under this Ordinance, for which purpose copies of the same, signed by three members and the secretary, shall be sent to the Registrar.

Provision applicable to amendments.

(3) The provision herein contained as to appeals from a refusal of registry shall apply to amendments of rules.

Acknowledgment of registry of amendments.

(4) The Registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this Ordinance, issue to the society an acknowledgment of registry of the same, which shall be conclusive evidence that the same is duly registered.

Copies of rules to be delivered on demand.

(5) A copy of the rules of a registered society shall be delivered by the society to every person on demand on payment of a sum not exceeding twenty-five cents.

Duties and obligations of societies.

8. With respect to the duties and obligations of registered societies the following provisions shall have effect:—

receipts and expenditure, funds and effects, of the society as audited, which shall show separately the expenditure in respect of the several objects of the society, and shall be made out to the thirty-first day of December then last inclusively, and shall state that the audit has been conducted by a public auditor appointed as by this Ordinance is provided, and by whom, and together therewith shall send a copy of the auditor's report:

Provided that the Minister may by notification in the Gazette order that, as respects any specially authorized society, the return shall be made out to, and be sent to the Registrar on, such days as may be specified in the Notification;

Inspection of books.

(e) allow any member or person having an interest in the funds of the society to inspect the books and the names of the members at all reasonable hours at the registered office of the society, or at any place where the same are kept, subject to such regulations as to the time and manner of such inspection as may be made from time to time by the general meetings of the society, except that no such member or person, unless he be an officer of the society or be specially authorized by a resolution thereof, shall have the right to inspect a loan or deposit account of any other member without the written consent of such member;

Supplying copies of annual returns.

(f) supply gratuitously to every member or person interested in the funds of the society, on his application, a copy of the last annual return of the society for the time being;

(g) keep a copy of the last balance sheet for the time being together with the report of the auditor always hung up in a conspicuous place at the registered office of the society;

(h) within a period of six months of its registration hold a general meeting of the members of the society and thereafter hold once at least in every calendar year a general meeting of its members.

(2) Every return and other document required for the purposes of this Ordinance, shall be made in such form, and shall contain such particulars, as the Registrar prescribes. Return to be in prescribed.

(3) All documents required by this section to be sent to the Registrar shall be deposited with the rules of the societies to which the same respectively relate, and shall be registered or recorded by the Registrar with such observations thereon, if any, as the Registrar shall direct. Recording of documents.

9. Registered societies shall be entitled to the following privileges :— Privileges of societies.

(1) The registration of a society shall render it a body corporate by the name described in the acknowledgment of registry, by which it may sue and be sued, with perpetual succession and a common seal, and with limited liability, and shall vest in the society all property for the time being vested in any person in trust for the society. Incorporation.

(2) The rules of the society shall bind the society 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 Rules to bind the members.

covenant on the part of himself, his heirs, executors, and administrators to conform thereto, subject to the provisions of this Ordinance.

Money payable by member to be a debt to the society.

- (3) All moneys payable by a member to the society shall be a debt due from such member to the society, and whatever may be the amount claimed shall be recoverable as such either in the Primary Court, Colombo, or in the Primary Court of the division in which such member resides, at the option of the society.

Power of nomination for sums not exceeding twenty thousand rupees.

- (4) A member of the society not being under the age of sixteen years may, by writing under his hand delivered at or sent to the registered office of the society, nominate any person, not being an officer or servant of the society, unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator, to whom his interest in the society shall be payable at his decease, provided that the amount credited to him in the books of the society does not exceed twenty thousand rupees, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent, but not otherwise; and every such society shall keep a book wherein the names of all persons so nominated shall be regularly entered, and the interest comprised in any such nomination shall be payable to the nominee, and on receiving satisfactory proof of the death of a nominator the committee of the society shall pay to every person entitled thereunder the full value of his interest.

Distribution of sums not exceeding twenty thousand rupees.

- (5) If any member of a society entitled to any interest in the society not exceeding twenty thousand rupees dies intestate, and without having made any nomination under this Ordinance which remains unrevoked at his death, such interest shall be

transferable or payable, without letters of administration, to or among the persons who appear to a majority of the committee, upon such evidence as they may deem satisfactory, to be entitled by law to receive the same.

- (6) Whenever the committee, after the decease of any member, makes any payment to any person who at the time appears to them to be entitled under this section, the payment or transfer shall be valid and effectual against any demand made upon the committee or the society by any other person.

Payment to persons apparently entitled, valid.

- (7) When any person in whose name any property belonging to any such society is standing, either jointly with another or others, or solely, as a trustee therefor, is absent from Sri Lanka, or becomes bankrupt, or files any petition, or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors, or becomes a person of unsound mind, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the Registrar, on application in writing from the secretary and three members of the society, and on proof satisfactory to him, may direct the transfer of the property into the names of any other persons as trustees for the society; and such transfer shall be made by the surviving or continuing trustees, and if there be no such trustees, or if such trustees refuse or be unable to make such transfer, then by the Registrar, who is hereby indemnified for anything done by him in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

When trustees are absent Registrar may order property to be transferred.

- (8) A person under the age of twenty-one, but above the age of sixteen, may be a member of a society, unless provision is made in the rules thereof to the contrary, and may, subject to the rules of the society,

Membership of minors.

enjoy all the rights of a member (except as herein provided), 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, trustee, manager or treasurer of the society.

Promissory notes and bills of exchange.

- (9) A promissory note or bill of exchange shall be deemed to have been made, accepted, or endorsed on behalf of any society if made, accepted or endorsed in the name of the society, or by or on behalf or on account of the society, by any person acting under the authority of the society.

Register of members.

- (10) Any register or list of members kept by any society shall be prima facie evidence of any of the following particulars entered therein:—

- (a) the names, addresses, and occupations of the members;
- (b) the date at which the name of any person, company, or society was entered in such register or list as a member;
- (c) the date at which any such person, company, or society ceased to be a member.

Contracts how made.

- (11) Contracts on behalf of the society may be made, varied, or discharged as follows:—

- (a) any contract requiring notarial execution, and every power of attorney, shall be made on behalf of the society, in writing, under the common seal of the society, and may in the same manner be varied or discharged;
- (b) any contract required to be in writing, and to be signed by the person to be charged therewith, may be made on behalf of the society, in writing, by any person acting under the express or implied authority of the society, and may in the same manner be varied or discharged;

- (c) any contract ordinarily binding private persons when made by parol may be made by parol on behalf of the society by any person acting under the express or implied authority of the society, and may in the same manner be varied or discharged;

- (d) a signature purporting to be made by a person holding any office in the society attached to a writing whereby any contract purports to be made, varied or discharged, by or on behalf of the society, shall prima facie be taken to be the signature of a person holding at the time when the signature was made, the office so stated,

and all contracts which may be or have been made, varied, or discharged, according to the provisions herein contained, shall, so far as concerns the form thereof, be effectual in law, and binding on the society and all other parties thereto, their heirs, executors, or administrators, as the case may be.

10. With respect to the property and funds of registered societies the following provisions shall have effect;—

Property and funds of lands societies.

- (1) A society may (if its rules do not direct otherwise) hold, purchase, or land-take on lease in its own name any land, and may sell, exchange, mortgage, lease, or build upon the same (with power to alter and pull down buildings, and again rebuild), and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire as to the authority of any such sale, exchange, mortgage, or lease by the society, and the receipt of the society shall be a discharge for all moneys arising from or in connection with such sale, exchange, mortgage, or lease.

Holding of

- (2) The rules may provide for the advancing of money by the society to members, on the security of movable or immovable property.

Advances to members.

- (3) In the rules or any schedule thereto may be set forth the forms of conveyance, surrender, admittance,

Forms.

mortgage, transfer, agreement, bond, or other instrument necessary for carrying the purposes of the society into effect.

Application of profits.

- (4) The profits of the society may be applied to any lawful purpose.

Discharge of mortgages by receipt endorsed.

- (5) A receipt under the hands of two members of the committee of the society, countersigned by the secretary in the form contained in the Schedule, or in any form specified by the rules of the society or any schedule thereto, for all moneys secured to the society by any mortgage or other assurance endorsed upon such mortgage or other assurance, shall vacate the same.

Investments.

- (6) A society may, if its rules so allow, invest any portion of the funds of the society, not immediately required for its purposes, upon real or leasehold securities, or in the shares, or on the security of any other society registered under this Ordinance, or of any company registered under the Companies Ordinance*, with limited liability, or in the public funds. Government stock, or Government securities; and a society so investing may make such investment in its registered name, and shall be deemed to be a person within the meaning of the Companies Ordinance.*

guarantee society in such sum as the committee directs, conditioned for his rendering a just and true account of all moneys received and paid by him on account of the society at such times as its rules appoint or as the society or the committee thereof require him to do, and for the payment by him of all sums due from him to the society.

- (2) Every officer, his executors, or administrators shall at such times as by the rules of the society he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the society or by the committee thereof, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society or the committee appoint, and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to deliver such property in manner aforesaid, the society may sue upon the bond or security before mentioned.

Accounts of officers.

12. With respect to legal proceedings against registered societies the following provisions shall have effect:—

Legal proceedings.

Officers in receipt or charge of money.

11. With respect to officers of registered societies having receipt or charge of money the following provisions shall have effect:—

Security to be given.

- (1) Every officer, if the rules of the society require, shall before taking upon himself the execution of his office, become bound, either with or without a surety as the committee require, in a bond according to the form set forth in the Schedule or such other form as the committee of the society approve, or give the security of a

The summons, writ, process, or other proceeding to be issued to or against a society shall be sufficiently served by leaving a true copy thereof at the registered office of the society, or at any place of business of the society within the jurisdiction of the court in which the proceeding is brought, or if such office or place of business be closed, by posting such copy on the outer door of the same; but in all cases where the said summons, writ, process, or other proceeding shall not be served by leaving a true copy

* Repealed and replaced by the Companies Act, No. 17 of 1982.

thereof at the registered office of the society, a copy thereof shall be transmitted addressed to the committee of management at the registered office of the society, and the same shall be enclosed in a registered letter posted at least six days before any further steps shall be taken on such summons, writ, process, or other proceeding.

evidence before such Registrar, shall be guilty of an offence under this Ordinance.

Disputes.

13. With respect to disputes concerning registered societies the following provisions shall have effect:—

(4) Where the rules of a society contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, the member or person aggrieved may apply to the District Court, which may hear and determine the matter in dispute.

To be decided by rules of the

(1) Every dispute between a member or person claiming through a member or under the rules of a registered society, and the society or an officer thereof, shall be decided in manner directed by the rules of the society, if they contain any such direction, and the decision so made shall be binding and conclusive on all parties without appeal, and shall not be removable into any court or restrainable by injunction; and application for the enforcement thereof may be made to the District Court.

(5) The court or Registrar may, at the request of either party, state a case for the opinion of the Court of Appeal on any question of law, and may also grant to either party such discovery as to documents and otherwise, or such inspection of documents, as might be granted by a District Court, such discovery to be made on behalf of the society by such officer of the same as such court or Registrar may determine.

Case for opinion of Court of Appeal.

14. With respect to the inspection of the affairs of registered societies the following provisions shall have effect:—

Special powers of registers

May be referred to

(2) The parties to a dispute in a society may, by consent, (unless the rules of such society expressly forbid it), refer such dispute to the Registrar, who shall hear and determine such dispute, and shall have power to order the expenses of determining the same to be paid, either out of the funds of the society or by such parties to the dispute as he shall think fit; and such determination and order shall have the same effect and be enforceable in like manner as a decision in the manner directed by the rules of the society.

(1) Upon the application of one-fifth of the number of members of a registered society or of one hundred members in the case of a society of more than five hundred members, the Registrar with the consent of the Minister, in every case may—

Application from members.

(a) appoint one or more inspectors to examine into the affairs of such society and to report thereon, who may require the production of all or any of the books and documents of the society, and may examine, on oath or affirmation, its officers, members, agents, and servants, in relation to its business, and may administer such oath or affirmation accordingly;

Inspectors.

Registrar may administer oaths, &c.

(3) The Registrar may administer oaths, and may require the attendance of all parties concerned and of witnesses, and the production of all books and documents relating to the matter in question; and any person refusing to attend, or to produce any documents, or to give

(b) call a special meeting of the society in such manner and in such time and place as the

Special meetings.

Registrar may direct, and may direct what matters shall be discussed and determined on at such meeting, which shall have all the powers of a meeting called according to the rules of the society, and shall in all cases have power to appoint its own chairman, any rule in the society to the contrary notwithstanding.

has been duly' given according to the rules, and which resolution is confirmed by a majority of such members for the time being entitled under the rules to vote as may be present, in person or by proxy, at a subsequent general meeting of which notice has been duly given, held not less than fourteen days nor more than one month from the day of the meeting at which such resolution was first passed. At any meeting mentioned in this section a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact.

Applications to be supported by evidence.

- (2) The application herein mentioned shall be supported by evidence, for the purpose of showing that the applicants have good reason for requiring such inspection to be made or meeting to be called, and that they are not actuated by malicious motives in their application, and such notice thereof shall be given to the society as the Registrar shall direct.

- (2) A society may, by special resolution, with the approval in writing of the Registrar, change its name, but no such change shall affect any right or obligation of the society, or of any member thereof; and any pending legal proceedings may be continued by or against the society notwithstanding its new name. Change of name

Security for costs.

- (3) The Registrar may, if he thinks fit, require the applicants to give security for the costs of the proposed inspection or meeting before appointing any inspector or calling such meeting.

- (3) Any two or more societies may, by special resolution of both or all such societies, become amalgamated together as one society, with or without any dissolution or division of the funds of such societies or either of them ; and any society may by special resolution transfer its engagements to any other registered society which may undertake to fulfil the engagements of such society. Amalgamation of societies-

Expenses.

- (4) All expenses of and incidental to any such inspection or meeting shall be defrayed, either by the members applying for the same or out of the funds of the society, as the Registrar shall direct.

- (4) A society may, by special resolution, determine to convert itself into a company under the Companies Ordinance,* or to amalgamate with or transfer its engagement to any such company. Conversion of societies into companies.

Special resolutions and proceedings.

15. With respect to special resolutions registered societies and to the proceedings which may be taken by virtue thereof, the following provisions shall have effect :—

Special resolutions.

- (1) A special resolution is one which is passed by a majority of not less than three-fourths of such members of a society for the time being entitled under the rules to vote as may be present, in person or by proxy (where the rules allow proxies), at any general meeting, of which notice specifying the intention to propose such resolution

- (5) No amalgamation or transfer of engagement shall prejudice any right of a creditor of either or any society party thereto. Right of creditor.

- (6) A copy of every special resolution for any of the purposes mentioned in this section, signed by the Registration of a special resolution.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

chairman of the meeting and countersigned by the secretary, shall be sent to the Registrar for registration, and until such copy has been registered such special resolution shall not take effect.

Registry of society under Ordinance to be void on registration as a company.

- (7) If a society be registered as, or amalgamates with, or transfers all its engagements to, a company, the registry of such society under this Ordinance shall thereupon become void and the same shall be cancelled by the Registrar; but the registration of a society as a company shall not affect any right or claim for the time being subsisting against such society, or any penalty for the time being incurred by such society; and for the purpose of enforcing any such right, claim, or penalty, the society may be sued and proceeded against in the same manner as if it had not become registered as a company; and every such right or claim, or the liability to such penalty, shall have priority as against the property of such company over all other rights or claims against or liabilities of such company.

Dissolution of societies,

16. With respect to the dissolution of registered societies the following provisions shall have effect:—

- (1) A society may terminate or be dissolved—
- (a) upon the happening of any event declared by the rules to be the termination of the society; or
- (b) by an order to wind up the society or a resolution for the winding up thereof made as is directed in regard to companies by the Companies Ordinance,* the provisions of which shall apply to any such order or resolution; or

(c) by the consent of three-fourths of the members, testified by their signatures to an instrument of dissolution.

- (2) Where a society is wound up the liability of a present or past member of the society to contribute for payment of the debts and liabilities of the society, the expenses of winding up, and the adjustment of the rights of contributories amongst themselves, shall be qualified as follows:—

(a) no individual who has ceased to be a member for one year or upwards prior to the commencement of the winding up shall be liable to contribute;

(b) no individual shall be liable to contribute in respect of any debt or liability contracted after he ceased to be a member;

(c) no individual not a member shall be liable to contribute unless it appears to the court that the contributions of the existing members are insufficient to satisfy the just demands on the society;

(d) no contribution shall be required from any individual exceeding the amount in respect of which he is liable as a past or present member;

(e) an individual shall be taken to have ceased to be a member from the date of the notice or application for withdrawal.

- (3) Where a society is terminated by an instrument of dissolution the following provisions shall apply:—

(a) the instrument of dissolution shall set forth the liabilities and assets of the society in

* Repealed and replaced by the Companies Act, No. 17 of 1982.

detail, the number of members, and the nature of their interests in the society respectively, the claims of creditors (if any) and the provision to be made for their payment, and the intended appropriation or division of the funds and property of the society, unless the same be stated in the instrument of dissolution to be left to the award of the Registrar;

(b) alterations in the instrument of dissolution may be made with the like consent as hereinbefore provided, and testified in the same manner;

(c) a declaration shall be made by three members and the secretary of the society that the provisions of this Ordinance have been complied with, and shall be sent to the Registrar with the instrument of dissolution ; and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of an offence, and be punishable on conviction with imprisonment, rigorous or simple, which may extend to two years, or with fine, or with both;

(d) the instrument of dissolution and all alterations therein shall be registered in manner herein provided for the registry of rules, and shall be binding upon all the members of the society;

(e) the Registrar shall cause a notice of the dissolution to be advertised at the expense of the society in the Gazette and in one of the Colombo daily newspapers, and unless within three months from the date of the Gazette in which such advertisement appears a member or other person

interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society in the District Court of the district where the registered office of the society is situate, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the instrument of dissolution shall be considered to have been duly obtained without proof of the signatures thereto;

(f) notice shall be sent to the Registrar of any proceeding to set aside the dissolution of a society, not less than seven days before it is commenced, by the person by whom it is taken, or of any order setting it aside within seven days after it is made by the society.

17. No member of a registered society, nor any person claiming through a member, shall be entitled to receive more than two thousand rupees by way of gross sum, together with any bonuses or additions declared upon assurances not exceeding that amount, or five hundred rupees a year by way of annuity, from any one or more such societies, and any such society may require a member or person claiming through a member to make and sign a declaration that the total amount to which such member or person is entitled from one or more such societies does not exceed the sums aforesaid; and any person knowingly making a false or fraudulent declaration that the total amount to which such member or person is entitled from one or more such societies does not exceed the sums aforesaid, and any person knowingly making a false or fraudulent declaration shall be guilty of an offence, and be punishable on conviction with imprisonment, rigorous or simple, which may extend to two years, or with fine, or with both.

Limits of benefit.

Public auditors.

18. The Minister with the concurrence of the Minister in charge of the subject of Finance may from time to time appoint public auditors and valuers for the purposes of this Ordinance and may determine from time to time the rates of remuneration to be paid by societies for the services of such auditors.

Fees.

19. The Minister with the concurrence of the Minister in charge of the subject of Finance may determine a scale of fees to be paid for matters to be transacted or for the inspection of documents under this Ordinance. All fees which may be received by the Registrar under this Ordinance shall be paid into the Treasury.

Regulations to be made for carrying out Ordinance.

20. (1) The Minister may, from time to time make regulations respecting registry and procedure under this Ordinance, and the forms to be used for such registry, and the duties and functions of the Registrar, and the inspection of documents kept by the Registrar, under this Ordinance, and generally for carrying this Ordinance into effect.

(2) All such regulations shall be published in the Gazette.

(3) Until otherwise provided, the forms contained in the Schedule shall be used.

Evidence of document.

21. Every instrument or document, copy or extract of an instrument or document, bearing the signature of the Registrar, shall be received in evidence without further proof; and every document purporting to be signed by the Registrar, or any inspector, or public auditor, or valuer under this Ordinance shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

Offences.

22. The following acts are declared to be offences under this Ordinance;—

(a) if any person with intent to mislead or defraud gives to any other person a copy of any rules, laws, regulations, or other documents other than the rules for the time being registered under this Ordinance, on the pretence that the same are existing rules of a registered society, or that there are

no other rules of such society, or gives to any person a copy of any rules on the pretence that such rules are the rules of a registered society, when the society is not registered ;

(b) if any person obtains possession by false representation or imposition of any property of a society, or, having the same in his possession, withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorized by this Ordinance;

(c) if any person wilfully makes, orders, or allows to be made any entry or erasure in or omission from any balance sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced, or delivered for the purposes of this Ordinance, with intent to falsify the same, or to evade any of the provisions of this Ordinance ;

(d) if any officer of the society or any person on its behalf uses any seal purporting to be a seal of the society whereon its name is not so engraved as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of the society, or signs or authorizes to be signed on behalf of the society any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bills of parcels, invoice, receipt, or letters of credit of the society wherein its name is not mentioned in manner aforesaid;

(e) if a registered society or branch or an officer or member thereof fails, for a period of six weeks after request made specially thereto in writing by the Registrar, either to give any notice or to send any return, statement or document, or to allow to be done anything which the society, branch, officer or

member is by this Ordinance required to give, send, do or allow to be done,

proceedings in a court of law, in composition of the offence committed accept from the society or branch or officer or member liable to punishment such sum of money not exceeding one hundred rupees as the Registrar may consider proper; and where composition is so accepted no other proceedings in respect of such offence shall be taken or continued against such society or branch or officer or member.

and every such offence shall be punished by a fine not exceeding one hundred rupees, or imprisonment, rigorous or simple, which may extend to three months, or by both:

Provided that nothing herein contained shall prevent any person guilty of an offence under this Ordinance from being criminally prosecuted under the Penal Code, if not previously convicted of the same offence under the provisions of this Ordinance ;

23. Where a registered society is guilty of an offence under this Ordinance the secretary or any other officer of the society bound by the rules thereof to fulfil any duty the breach whereof is the offence shall be liable to the same penalty as if he had committed the offence.

Persons liable for offences by society.

Provided further that in respect of the offences described in paragraph (e) the Registrar may instead of instituting

SCHEDULE

MATTERS TO BE PROVIDED FOR BY THE RULES OF SOCIETIES REGISTERED UNDER THIS ORDINANCE

[Section 7.]

1. The name and place of office of the society.
2. The whole of the objects for which the society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member.
3. The mode of holding meetings and right of voting, and the manner of making, altering, or rescinding rules.
4. The appointment and removal of a committee of management (by whatever name), of a treasurer and other officers, and of trustees, and in the case of a society with branches, the composition of a central body, and the conditions under which a branch may secede from the society.
5. The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.
6. Annual returns to the Registrar of the receipts, funds, effects, and expenditure, and number of members of the society.
7. The inspection of books of the society by every person having an interest in the funds of the society.
8. The manner in which disputes between the society and any of its members, or any person claiming through a member or under the rules, shall be settled.

FORM OF BOND

[Section II (1).]

Know all men by these presents that we, *A. B.*, of one of the officers of the Society established at and *C. D.* of (as surety on behalf of the said *A. B.*), are jointly and severally held and firmly bound to the said Society in the sum of to be paid to the said Society, for which payment well and truly to be made we jointly and severally bind ourselves and each of us by himself, our and each of our heirs, executors, and administrators, firmly by these presents.

Signed and dated this day of 19

Whereas the above-bounden *A B.*, has been duly appointed to the office of of the Society established as aforesaid, and he, together with the above-bounden *C. D.* as bis surety, have entered into the above-written bond, subject to the condition hereinafter contained :

SOCIETIES

Now therefore the condition of the above-written bond is such, that if the said A. B. do render a just and true account of all moneys received and paid by him on account of the said Society, at such times as the rules thereof appoint, and do pay over all the moneys remaining in his hands, and assign and transfer or deliver all property (including books and papers) belonging to the said Society in his hands or custody to such person or persons as the said Society shall appoint according to the rules of the said Society, together with proper and legal receipts or vouchers for such payments, then the above-written bond shall be void, otherwise shall remain in full force.

Signed and delivered in the presence of (two witnesses).

[Section 10.]

FORM OF RECEIPT TO BE ENDORSED ON MORTGAGE OR OTHER ASSURANCE

The Society hereby acknowledges to have received all moneys intended to be received by the within (or above) - written deed.

Signed (signatures of two members of the Committee).

Countersigned (signature of Secretary).

Secretary.

[Section 7.]

ACKNOWLEDGMENT OF REGISTRY OF SOCIETY

The.....Society is registered as a society under the Societies Ordinance, this..... day of..... 19.....

Registrar of Societies.

ACKNOWLEDGMENT OF REGISTRY OF AMENDMENT OF RULES

The following amendment of the rules of the Society is registered under the Societies Ordinance, this day of 19

Registrar of Societies.

CHAPTER 343

SALT

Ordinances AN ORDINANCE TO REGULATE THE MANUFACTURE, COLLECTION, REMOVAL, AND
 Nos. 6 of 1890, SALE OF SALT AND TO PROTECT THE REVENUE DERIVED THEREFROM.
 4 of 1941,
 25 of 1943,

Acts
 Nos. 22 of 1955,
 31 of 1964.

[14th May. 1890.]

- | | | | |
|---|---|--|---|
| Short title. | 1. This Ordinance may be cited as the Salt Ordinance. | 5. (1) The Commissioner may from time to time grant licences authorizing the possession or sale by retail, in any district mentioned in the Schedule, of salt purchased from a Government store in that district. | Commissioner may grant licences for possession or retail of salt. |
| Appointment of officers. | 2. (1) There may be appointed—

(a) any person by name or by office, to be, or to act as Salt Commissioner;

(b) such other officers and servants as may be necessary for the purposes of this Ordinance.

(2) Any power conferred by this Ordinance on the Commissioner may be exercised by any officer authorized in writing for the purpose by the Commissioner. | (2) The licence to be granted to any person for the possession of salt shall define the purposes for which the salt is required, the quantity allowed to be possessed, the Government store from which the salt has been or is to be purchased, and the period during which it is to be in force :

Provided that such period shall in no case exceed one year from the date of such licence. | |
| Collection and manufacture of salt. | 3. It shall not be lawful for any person to collect or attempt to collect salt naturally formed, or to manufacture or attempt to manufacture salt by any process whatsoever, except on account of Government and under the authority of a licence granted by the Commissioner. | 6. Persons licensed to sell salt by retail may grant licences in their respective districts for the possession of salt purchased from themselves in quantities not exceeding fifty-six pounds, and for a period not exceeding fourteen days. | Retailers may grant licences. |
| Possession of salt in districts enumerated in Schedule. | 4. It shall not be lawful for any person, unless duly authorized by licence as hereinafter provided, to possess salt in any greater quantity than three quarts in the districts enumerated in the Schedule: | 7. It shall not be lawful for any person to bury or conceal in any quantity whatever any salt illegally collected, manufactured or possessed, or which shall not be satisfactorily accounted for; and the occupier of any house or premises in which shall be found any salt, or any earth or sand or water impregnated with salt, which he is unable satisfactorily to account for, shall be guilty of an offence, and be liable to such punishment as is provided for by section 17. | Concealment of salt. |
| Restrictions as to quality. | Provided that the possession of any salt whatever in the said districts enumerated in the Schedule, of a description different from that issued from the Government stores for sale within the limits of the village, district, or province in which such salt shall be found, shall be unlawful, unless the person possessing the same shall duly account for the difference. | 8. If any person shall be found in the immediate vicinity of any salt pan or salt <i>lewaya</i> under suspicious circumstances, it | Persons found in the vicinity of a salt pan. |

shall be lawful for any person to bring him before the Magistrate's Court, which shall thereupon investigate the matter of suspicion alleged against him, and if he shall fail to give a satisfactory account of himself, and there shall, in the opinion of the court, be reasonable ground to believe that he was in the immediate vicinity of such salt pan or *lewaya* with intent to collect or remove salt there formed, collected, or deposited, the court shall require him to give such security for his good conduct as it shall deem fit, and in default of such security shall sentence him to imprisonment, simple or rigorous, for a period not exceeding six months.

Protection of salterns, &c.

9. (1) The Minister may make such regulations as may appear to him to be necessary for the purpose of protecting any saltern or salt *lewaya* or any bund or channel maintained in connexion with any saltern or salt *lewaya*.

(2) Without prejudice to the generality of the powers conferred by subsection (1), any regulation made thereunder may—

- (a) define any area immediately adjoining any saltern or salt *lewaya* and declare that area to be a protected area for the purposes of this Ordinance;
- (b) prohibit or regulate the entry of persons into any saltern, salt *lewaya* or area so protected ; and
- (c) provide that any person who does any act in contravention of any provision of any such regulation or fails to comply with any provision of any such regulation shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rupees.

(3) No regulation made under subsection (1) 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 under subsection (1) shall, upon the publication 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.

10. It shall not be lawful for any person in any district other than those enumerated in the Schedule to possess, sell, dispose of, or remove any salt whatever, unless such salt be of the same kind and description as the salt manufactured or collected in some part or parts of Sri Lanka on account of Government.

Possession, removal, or sale of salt other than salt collected or manufactured by Government illegal.

11. (1) It shall not be lawful for any person to remove salt in any quantity exceeding seven pounds at any one time from any district mentioned in the Schedule except under the authority of a permit issued by the Commissioner or by a licensed retail dealer.

Removal of salt.

(2) Every such permit shall specify the name of the person to whom it is issued, the quantity of salt authorized to be removed thereunder, and the place from which, the destination to which, the manner in which, and the date before which, such salt is to be removed. The date specified in any such permit shall not, in the case of a permit issued by the Commissioner, be later than three months, or, in the case of a permit issued by a licensed retailer, be later than fourteen days, after the date on which the permit is issued.

12. It shall not be lawful for any person to import any salt into Sri Lanka or to export any salt from Sri Lanka except under the authority of a permit issued by the Commissioner, and except in accordance with such conditions as may be set out in such permit:

Importation and exportation of salt.

Provided, however, that in the case of any salt which is shipped as stores on board any vessel or aircraft, the permit required by the preceding provisions of this section may be issued by any Collector of Customs.

13. It shall be unlawful for any person to sell salt within the districts enumerated in the Schedule in any quantity whatsoever, except on account or by licence of the Commissioner.

Sale.

14. Every licensed retail dealer shall affix in front of his shop, stall, or place of retail sale a board having printed or legibly written thereon the name of the licensed retail dealer and the words " licensed to sell

Retailer to affix notice to place of sale.

salt", together with the price fixed under section 16, in the Sinhala, Tamil and English languages, and shall not sell any salt by retail without having such board affixed, or in any place other than that at which he is licensed to sell.

Sale of adulterated salt illegal.

15. (1) Save as otherwise provided in subsection (2), it shall be unlawful for any storekeeper or other person selling salt on behalf of Government, or any licensed retail dealer of salt, to possess or sell adulterated salt.

(2) Nothing in subsection (1) shall be deemed to prohibit the possession or sale of denatured salt by any storekeeper or other person selling salt on behalf of the Government.

In this subsection, "denatured salt" means salt which has been deliberately rendered unfit for human consumption by admixture with petroleum or kerosene, and with soot, charcoal powder or any other conspicuous unpalatable substance.

Salt to be sold by weight.

16. (1) Every storekeeper or other person selling salt on behalf of Government, and every licensed retailer of salt, shall be bound to sell and deliver salt at such price as may be fixed from time to time by the Minister with the concurrence of the Minister in charge of the subject of Finance.

[§2.31 of 1964.]

(2) It shall not be lawful for any person to sell any salt otherwise than by weight.

Penalty for breaches of Ordinance.

17. Any person who shall collect or manufacture, or attempt to collect or manufacture, or possess, or sell, or dispose of, or remove, or land, or ship salt in any way contrary to the provisions of this Ordinance, or otherwise than in accordance with the licence or permit on that behalf granted under this Ordinance, or who shall possess or sell adulterated salt, or bury or conceal any salt illegally collected, manufactured, or possessed; and the occupier of any house or premises in which shall be found any salt, or any earth or sand or water impregnated with salt which he is unable satisfactorily to account for; and any master or person in charge of any vessel or aircraft who shall land or ship salt from or on board the vessel or aircraft in

contravention of the provisions of section 12; and any person who shall abet any other person in the commission of any of the aforesaid acts, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees, and in default of payment to imprisonment, rigorous or simple, for any period not exceeding twelve months.

18. And all salt in respect of which any offence shall be committed, and all vessels containing the same, or in which such salt shall be unlawfully collected, manufactured, possessed, removed, sold, or conveyed, together with any horse, bullock, or any other beast employed in the carriage or conveyance of such salt, and any machinery employed in the unlawful manufacture of salt, shall be confiscated.

Confiscation of property.

19. (1) Any offence against this Ordinance may be inquired into, tried, and determined by the Magistrate's Court of the division in which the offence 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 salt, vessel, machinery, or thing liable to be confiscated under section 18 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 fine under this Ordinance may award to an informer any portion, not exceeding a moiety, thereof which may be actually recovered.

Informer's share.

20. It shall be lawful for any police officer or grama seva niladhari or for any officer of the Salt Department of a rank not below that of Sub-Inspector or any excise officer of a rank not below that of Inspector to arrest any person whom he finds committing or attempting to commit any offence under this Ordinance, and to seize any salt or other thing declared by this Ordinance to be liable to be confiscated, and to produce the same forthwith before the Magistrate's Court.

Arrest and seizure.

Search or seizure without warrant.

21. In all cases requiring any search or seizure to be made without the delay which would be incurred by an application to the Magistrate's Court, any police officer or grama seva niladhari or any officer of the Salt Department of a rank not below that of Sub-Inspector or any excise officer of a rank not below that of Inspector may, on information laid before him showing just grounds of suspicion, and that the object of search would probably be defeated by the delay of applying to the Magistrate, make such search or seizure without warrant;

Provided always that such search or seizure, if in a dwelling house, shall be made or commenced between sunrise and sunset only, and that in such and all other cases of search or seizure the police officer, grama seva niladhari or other officer shall report his proceedings and the result of his search or seizure to the nearest Magistrate without unnecessary delay, and any police officer, grama seva niladhari or other officer failing to make such report shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees ; and if any police officer, grama seva niladhari or other officer shall have wantonly, maliciously, or corruptly exercised any power or authority hereby vested in him, he shall, besides his liability in damages to the party injured, suffer such punishment as the court shall on conviction award.

SALT

22. It shall be lawful for the Minister from time to time, by Order to be published in the Gazette, to exempt any part or parts of Sri Lanka from all or any of the restrictions to which the same are subject under this Ordinance in regard to the sale, possession, removal, or manufacture of salt, and any such Order to amend, alter, suspend, or revoke by any subsequent Order to be issued and published in like manner.

Minister empowered to exempt any parts of Sri Lanka from the restrictions of the Ordinance.

23. Nothing in this Ordinance contained shall apply to any salt which is imported into Sri Lanka, and on which customs duty shall have been duly paid.

Ordinance not to apply to imported salt.

24. In this Ordinance, unless the context otherwise requires—

Interpretation.

" abet " has the same meaning as in the Penal Code;

" adulterated" means mixed, whether mechanically or otherwise, with any substance not forming part of the composition of the salt when issued from the Government store ,

" Commissioner " means the Salt Commissioner, appointed under section 2,

" vessel" means anything employed to contain salt or for the carriage or conveyance of salt, whether by land or water.

[Sections 4, 10 and 13.]

SCHEDULE

The judicial district of Chilaw north of the Deduru-oya.

The judicial district of Puttalam.

The judicial district of Mannar.

The judicial district of Jaffna.

The judicial district of Vavuniya, exclusive of Karunavalpattu south and Melpattu north.

The judicial district of Trincomalee.

The Judicial district of Batticaloa.

The judicial district of Tangalla, exclusive of Walasmulla upper and iower, Wewagampalata, Paranagampalata and all such parts of that judicial district as are not within the administrative district of Hambantota.

CHAPTER 372

STATISTICS

Ordinance AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT IN SRI LANKA OF AN
 No. 44 of 1935, OFFICIAL BUREAU OF STATISTICS AND FOR THE SUPPLY OF INFORMATION
Act THERE TO.
 No. 22 of 1955.

[22nd November. 1935.]

Short title. 1. This Ordinance may be cited as the Statistics Ordinance.

Matters to which the Ordinance may be applied. 2. The Minister may by Order published in the Gazette, apply the provisions of this Ordinance to any matter relating to the economic conditions of Sri Lanka in respect of agriculture, emigration, immigration, factories, meteorology, mining, importation, exportation, manufacture and sale of products, stocks of products in possession and in course of transshipment, shipping, transportation by land or by water, trade, labour, cost of living, wages, industry, and commerce.

Establishment of Bureau of Statistics. 3. There shall be established in Sri Lanka a Bureau of Statistics for the collection and preparation of statistics relating to any matter to which the provisions of this Ordinance are applied by Order under section 2.

Appointment of Director and other officers. 4. (1) There may be appointed—
 (a) any person by name or by office to be or to act as Director of Statistics ;
 (b) such other officers and servants as may from time to time be required for the purposes of this Ordinance.

(2) The Bureau shall be under the control and management of the Director.

(3) All persons, officers, and servants discharging duties or engaged in carrying out the provisions of this Ordinance shall be deemed to be public servants within the meaning of the Penal Code.

Supply of information. 5. (1) The Director may at any time by notice in writing require any person to

supply, substantially in the prescribed form and before a specified date, any information relating to any matter to which this Ordinance applies.

(2) In addition to or in lieu of the power conferred under subsection (1)—

(a) the Director or any officer duly authorized by him may at any time require any person to supply to the prescribed officer, in the prescribed manner and before a specified date, written information relating to any matter to which this Ordinance applies;

(b) any officer duly authorized by the Director may require any person to supply oral information relating to any matter to which this Ordinance applies:

Provided that such officer shall not require the attendance of any person at any specified place, but shall proceed to the residence or place of business of that person for the purpose of obtaining such oral information.

(3) The Director or any officer duly authorized by him may at any time require any person to produce or cause to be produced before a specified date such documentary or other evidence as the Director or the officer so authorized may deem necessary for the purpose of verifying any information supplied by that person under this Ordinance. Any person whose attendance is required at any place more than four miles distant from the ordinary

residence of that person for the purpose of producing such documentary or other evidence shall be entitled to be paid for such attendance an allowance at such rates as may be prescribed.

(4) Nothing in this section contained shall affect or be deemed to affect any written or other law relating to the disclosure or non-disclosure of any official, secret, or confidential information, evidence, or document; and any person required by the Director or by an officer authorized by the Director to supply any information, to give any evidence, or to produce any document, shall be entitled in respect of such information, evidence, or document to plead the same privilege before the Director or such officer as before a court of law.

Duty of person supplying information.

6. Every person required under section 5 to supply any information shall be bound to supply that information to the best of his knowledge and belief:

Provided that no person shall be required or bound to supply any information other than such as is accessible to him in and derivable by him from any business or undertaking carried on in Sri Lanka of which he is the owner for the time being, or in the conduct or supervision of which he is engaged, or any information which involves the disclosure of any technical process or trade secret in or relating to such business or undertaking.

Information supplied by any one person not to be published except in certain circumstances.

7. (1) No information supplied by any one person under the provisions of this Ordinance shall be published without the consent in writing of the owner for the time being of the land, business, or undertaking to which that information relates; nor, except for the purposes of a prosecution under this Ordinance, shall that information be divulged or communicated to any person not engaged in the collection and preparation of statistics under this Ordinance.

(2) Every person engaged in the collection and preparation of statistics under this Ordinance shall make a declaration in the prescribed form that he will not, except for the purposes of this

Ordinance, disclose or make use of any information supplied under this Ordinance.

8. Any person who—

(a) knowingly acts in contravention of a declaration made by him under section 7; or

(b) being in possession of any information which to his knowledge has been disclosed in contravention of the provisions of section 7, publishes or communicates that information to any other person,

Penalty for unlawful disclosure of information.

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 one thousand rupees or to both such imprisonment and fine.

9. Subject to any regulations made under section 13, all notices and other communications for the purposes of this Ordinance may be served in the following manner:—

Mode of service of notices, &c.

(1) Where the owner for the time being of the land, business, or undertaking in relation to which information is required is in Sri Lanka, the notice or communication shall be deemed to have been duly served upon him if it has been delivered to him.

(2) Where the owner for the time being of such land, business, or undertaking has in Sri Lanka an agent duly authorized by power of attorney to accept service on his behalf or an agent or other employee entrusted with the control, management or supervision of such land, business, or undertaking, the notice or communication shall be deemed to have been duly served upon such owner if it has been delivered to such agent or employee.

(3) Where service cannot be effected in the manner described in subsections (1) and (2), the notice or communication shall be deemed to have been duly served upon such

owner if it has been sent by registered post addressed to him at his last known place of residence in Sri Lanka.

- (4) Where the owner for the time being of such land, business, or undertaking is a company or corporation the notice or communication shall be deemed to have been duly served upon such company or corporation if it has been—

- (a) delivered to any director, manager, secretary or other principal officer in Sri Lanka of that company or corporation or to any person duly authorized to accept service on behalf of the company or corporation or to any person having on behalf of the company or corporation powers of control or management over such land, business, or undertaking; or

- (b) left at the registered office, if any, of the company or corporation in Sri Lanka; or

- (c) sent by registered post addressed to the company or corporation at its principal office wherever situate.

Offences.

10. Any person who-

- (a) commits a breach of any of the provisions of this Ordinance or of any regulation made thereunder; or

- (b) without lawful excuse refuses or neglects to comply with any direction or requirement duly made under the powers conferred by this Ordinance, or by any regulation made thereunder; or

- (c) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred upon him under this Ordinance or under any regulation made thereunder; or

- (d) knowingly supplies or causes to be supplied any false information when directed to supply information under this Ordinance or under any regulation made thereunder; or

- (e) knowingly produces or causes to be produced any false evidence when directed to produce evidence under this Ordinance or under any regulation made thereunder,

shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty rupees and, in the case of a continuing offence shall be liable to a further fine not exceeding ten rupees for each day during which the offence continues.

11. Where a company or corporation has been directed by a notice served in the manner provided in section 9 (4) to supply any information or to produce any evidence under this Ordinance or under any regulation made thereunder, every director, and the manager, secretary, or other principal officer in Sri Lanka of that company or corporation, and any person to whom such notice has been delivered under section 9 (4), who—

Liability of individuals for offences committed by companies, &c.

- (a) without lawful excuse refuses or neglects, or wilfully authorizes or permits any employee of that company or corporation to refuse or neglect, to supply that information or to produce that evidence in accordance with such direction; or

- (b) knowingly supplies or causes to be supplied any false information; or

- (c) knowingly produces or causes to be produced any false evidence,

shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to the punishment provided in section 10.

12. Where any person has committed an offence under section 10 (d) or section 11 (b), the offence shall be deemed to be a continuing offence until true information shall have been duly supplied.

Continuing offences.

Regulations.

13. (1) The Minister may make regulations for the purpose of carrying out the 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 under this Ordinance stated or required to be prescribed ;
- (b) the manner in which information required under this Ordinance shall be collected and arranged by the Bureau either in co-operation with or independently of the Government Agent of any administrative district, or the head of any department of Government;
- (c) the officers to whom, the times and places at which, and the form and manner in which information shall be supplied and authenticated ;
- (d) the form and manner in which statistics collected under this Ordinance shall be published ;
- (e) the manner in which notices and other communications issued under this Ordinance shall be served in special cases;
- (f) the exemption from the obligation to furnish information under this Ordinance either wholly or to a limited extent and either unconditionally or subject to conditions, of any person or class of persons;
- (g) the entry and inspection by officers discharging duties under this Ordinance of any land, institution, building, mine, factory, workshop or other place, for the purpose of obtaining or verifying information required under this Ordinance.

Approval of regulations.

14. (1) No regulation made under this Ordinance shall have effect unless it has been approved by Parliament. Notification

of such approval shall be published in the Gazette.

(2) Every regulation shall, upon the publication of the approval of that regulation as provided for in subsection (1) be as valid and effectual as if it were herein enacted.

15. In making regulations under this Ordinance, due regard shall be had to the circumstances of various trades and industries, and in particular to the importance of avoiding the disclosure in any information required under this Ordinance of any technical process, trade secret, or trading profits, or of any other matter the disclosure of which would be likely to tend to the prejudice of the owner for the time being of the land, business or undertaking to which that information relates.

Duty in making regulations.

16. In any report, summary of statistics, or other publication prepared under this Ordinance with reference to any trade or industry, the particulars comprised in the information supplied by any one person shall not be disclosed or so arranged as to facilitate the identification of any particulars so published as being particulars relating to any individual person or business.

Contents of reports. Ac., published under the Ordinance.

17. (1) All information supplied under this Ordinance shall be verified by a declaration that the statements contained therein are true and accurate.

Information to be verified by declaration.

(2) Every declaration made under this Ordinance shall be free from stamp duty.

18. In this Ordinance unless the context otherwise requires—

Interpretation.

" Bureau " means the Bureau of Statistics established under section 3;

" Director " means the person appointed to be or to act as Director of Statistics under section 4 ;

" prescribed " means prescribed by this Ordinance or by any regulations made thereunder;

" regulation " means a regulation made by the Minister.

CHAPTER 392

SPORTS

Law
No. 25 of 1973.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL SPORTS COUNCIL, DISTRICT SPORTS COMMITTEES AND THE NATIONAL OLYMPIC COMMITTEE OF SRI LANKA ; FOR THE ESTABLISHMENT OF A SPORTS FUND ; FOR THE REGISTRATION AND SUPERVISION OF NATIONAL ASSOCIATIONS OF SPORTS; FOR THE ESTABLISHMENT OF SCHOOLS OF SPORTS; AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[10th August. 1973.]

Short title.

1. This Law may be cited as the Sports Law.

(4) No suit shall lie against any public officer acting under this Law for anything done or omitted to be done by him in good faith.

Establishment of a National Sports Council, &c.

2. For the purposes set out in this Law, there may be established in accordance with the succeeding provisions of this Law—

(5) In the exercise of their powers and the carrying out of their duties and functions, all officers appointed under this section shall comply with any general or special directions issued by the Minister or by the Secretary to the Ministry.

(a) a National Sports Council;

(b) such number of District Sports Committees as the Minister may determine;

(c) a National Olympic Committee of Sri Lanka;

(d) a Fund called the National Sports Fund; and

(e) such number of Schools of Sports as the Minister may determine.

PART I

ESTABLISHMENT OF A NATIONAL SPORTS COUNCIL, DISTRICT SPORTS COMMITTEES, AND A NATIONAL OLYMPIC COMMITTEE OF SRI LANKA

Appointment of Director of Sports and other officers.

3. (1) There shall be appointed a Director of Sports, who shall be responsible for the due performance of the duties and functions assigned to him as the Director of Sports by the Minister under this Law.

4. (1) There shall be established a Council called "The National Sports Council", hereinafter referred to as "the Council", to advise the Minister on matters connected with the promotion, development and control of sports in Sri Lanka.

Establishment of National Sports Council.

(2) The Council shall consist of-

(2) There may be appointed one or more Assistant Directors of Sports and such other officers as may from time to time be required for the purposes of this Law.

(a) a Chairman and twelve other members appointed by the Minister;

(3) All officers appointed under subsections (1) and (2) of this section shall be deemed to be public servants within the meaning of the Penal Code.

(b) the Director of Sports ; and

(c) a Secretary appointed by the Minister.

(3) A member appointed to the Council shall cease to hold office in any National Association of Sports or other sports body or organization in Sri Lanka during the continuance of his membership.

Functions and duties of the Council.

5. Subject to the provisions of this Law, the functioning and duties of the Council and the quorum for meetings of the Council shall be prescribed by regulations.

Rules.

6. The Council may make rules to regulate the procedure at meetings of the Council and the transaction of business at such meetings.

Vacation of office, removal, &c., of members of the Council.

7. (1) The Chairman, Secretary and members of the Council appointed by the Minister shall, unless they vacate office earlier by death, resignation or removal, hold office for a period of three years.

(2) The Minister may, if he considers it expedient to do so, remove from office the Chairman, Secretary or any member of the Council appointed by him, without reasons stated and such removal shall not be questioned in any court of law.

(3) Any person appointed in place of the Chairman, Secretary or a member, who has vacated office by death, resignation or removal, shall hold office only for the unexpired term of office of such person who has vacated office.

Disqualifications.

8. A person shall be disqualified from serving on the Council if he—

- (a) is or has been adjudged by a competent court to be of unsound mind; or
- (b) is or has been adjudged by a competent court to be an insolvent or bankrupt; or
- (c) is directly or indirectly interested in the manufacture, assembly, sale or

production of any sports goods, gear or equipment; or

- (d) is convicted in a court of law for any offence which, in the opinion of the Minister, involves moral turpitude.

9. A member who vacates office by effluxion of time shall be eligible for reappointment. Member eligible for reappointment.

10. If any member appointed by the Minister 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 appoint some other person to act as a member in his place. Appointment eligible for members.

11. (1) The Minister may, by Order published in the Gazette, establish a " District Sports Committee " for each such administrative district as he may determine, to advise the Minister on matters connected with the promotion, development and control of sports in the district. Establishment of District Sports Committees.

(2) Every District Sports Committee established for an administrative district shall consist of a Chairman, a Secretary and not more than thirteen other members appointed by the Minister.

12. Subject to the provisions of this Law, the functioning and duties of Districts Sports Committees and the quorum for meetings of such Committees shall be prescribed by regulations. Functions and duties of District Sports Committees.

13. Every District Sports Committee may make rules to regulate the procedure at meetings of such Committee and the transaction of business at such meetings. Rules of District Sports Committees.

14. (1) The members of any District Sports Committee appointed by the Minister shall, unless they vacate office earlier by death, resignation or removal, hold office for a period of three years. Vacation of office, &c., of members.

(2) The Minister may, if he considers it expedient to do so, remove from office any

member of a District Sports Committee appointed by him, without reasons stated and such removal shall not be questioned in any court of law.

(3) Any person appointed in place of any member who has vacated office by death, resignation or removal shall hold office only for the unexpired term of office of such member who has vacated office.

Reappointment of members, **15.** A member who vacates office by effluxion of time shall be eligible for reappointment.

Acting members. **16.** If any member 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 appoint some other person to act as a member in his place.

Disqualifications for serving as a member of a District Sports Committee, **17.** A person shall be disqualified from serving on any District Sports Committee if **be-**

(a) is or has been adjudged by a competent court to be of unsound mind; or

(b) is or has been adjudged by a competent court to be an insolvent or bankrupt; or

(c) is directly or indirectly interested in the manufacture, assembly, sale or production of any sports goods, gear or equipment; or

(d) is convicted in a court of law for any offence which, in the opinion of the Minister, involves moral turpitude.

Establishment of National Olympic Committee of Sri Lanka. **18.** (1) There may be established a Committee which shall be called "The National Olympic Committee of Sri Lanka"

(2) Such Committee shall consist of—

(a) members, if any, of the International Olympic Committee in Sri Lanka,

who shall be ex officio, non-voting members unless they have been appointed under paragraph (b); and

(b) two representatives of each of the National Associations of Sports registered in accordance with the succeeding provisions of this Law, provided, however, that each such National Association is affiliated to or is a member of its respective International Federation and the sports it represents are included in the programme of the Olympic Games.

The Committee may co-opt delegates of other registered National Associations of Sports or persons who have rendered or can render exceptional service to the Olympic movement provided that such co-opted members do not constitute the voting majority in the Committee.

19. The functions, powers and duties of such Committee shall be prescribed by regulation. Functions, &c. of the Committee.

20. Such Committee may make rules to regulate the procedure at meetings of the Committee and the transaction of business at such meetings. Rules of Committee.

21. A person shall be disqualified from serving on such Committee, if he— Disqualifications.

(a) is or has been adjudged by a competent court to be of unsound mind; or

(b) is or has been adjudged by a competent court to be an insolvent or bankrupt; or

(c) is directly or indirectly interested in the manufacture, assembly, sale or production of any sports goods, gear or equipment; or

(d) is convicted in a court of law for any offence which, in the opinion of the Minister, involves moral turpitude.

PART II

ESTABLISHMENT AND ADMINISTRATION
OF THE NATIONAL SPORTS FUND

Establishment
of the National
Sports Fund.

22. There shall be established a fund called the National Sports Fund, hereinafter referred to as "the Fund" for the encouragement, promotion and development of sports in Sri Lanka.

Payments into
the Fund.

23. There shall be paid into the Fund—

- (a) all sums of money as may from time to time be voted by Parliament for the purposes of the Fund ;
- (b) all moneys received as aid from any foreign countries;
- (c) all moneys received as donations made by any person to the Fund ; and
- (d) moneys received from any other source:

Provided, however, that where moneys are received under paragraphs (b), (c) or (d) of this section on the condition that such moneys be utilized for a specific purpose, the acceptance of such moneys for the credit of the Fund shall be at the sole discretion of the Minister:

Provided further, that moneys may be accepted, at the discretion of the Minister, to be utilized for granting awards and endowments or to be held in trust for any specified purposes and such moneys may not be credited to the Fund but may be maintained separately.

Donations of
movable and
immovable
property.

24. Any donation of any movable or immovable property may be accepted by the Minister on behalf of the Republic of Sri Lanka to be used for the purposes of this Law. Any such property may, in the discretion of the Minister and in the manner determined by him, be sold and the proceeds thereof credited to the Fund.

25. (1) The Fund shall be under the control and administration of the Minister and shall be administered by the Secretary to the Ministry subject to the directions of the Minister. Administration of the Fund.

(2) The Secretary to the Ministry shall, as soon as possible, after the end of each calendar year prepare a report on the administration of the Fund.

(3) The Secretary to the Ministry shall cause to be maintained a full and appropriate account of the Fund in respect of each calendar year.

(4) The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Fund.

(5) The financial year of the Fund shall be the calendar year.

26. A report on the administration of the Fund for each calendar year together with a copy of the audited accounts of the Fund for that year and the report of the Auditor-General on such accounts, shall, as soon as possible, be placed by the Minister before Parliament. Report on the Fund.

27. The Minister may pay out of the Fund such sums of money as the Minister may determine— Payments out of the Fund

(a) for the encouragement, promotion and development of any sport in Sri Lanka;

(b) as *ex gratia* payments to present or past participants in sports in recognition of any exceptional contribution to sports;

(c) for investing in any fixed deposits in any bank or in any Government loans or debentures ; and

(d) for the purpose of carrying out or giving effect to the provisions of this Law.

PART III

REGISTRATION AND SUPERVISION OF
NATIONAL ASSOCIATIONS OF SPORTS

Naming a sport or group of sports.

28. The Minister may, by Order published in the Gazette, name any sport or group of sports for which a National Association may be formed.

Registration of National Associations of Sports.

29. When a sport or group of sports is named by an Order under section 28—

- (a) any National Association of such sport or group of sports, which is in existence at the time such Order is made, shall, within three months of the publication of such Order in the Gazette, apply for registration in accordance with the succeeding provisions of this Law; and
- (b) any National Association of such sport or group of sports, which is formed after such Order is made, shall, within three months of its formation, apply for registration in accordance with the succeeding provisions of this Law.

Appeals against decisions and actions of National Associations of Sports.

30. Any person who is aggrieved by any decision or action of a registered National Association of Sports may, in accordance with the succeeding provisions of this Law, appeal to the Minister against such decision or action and the Minister's decision on such appeal shall be final and conclusive and shall not be questioned in any court of law.

Procedure for registration, composition, constitution, duties, powers and functions, &c., of National Associations of Sports.

31. The Minister may prescribe by regulation—

- (a) the procedure for registration of National Associations of Sports and the fees to be charged for such registration;
- (b) the composition and constitution of such Associations;

(c) the duties, powers and functions of such Associations;

(d) the procedure in appealing against decisions or actions of such Associations; and

(e) the procedure for appointment of coaches, referees, umpires and judges by such Associations.

32. The Minister may refuse registration, or suspend or cancel the registration, of a National Association of Sports—

Refusal, suspension and cancellation of registrations of National Associations of Sports.

(a) for failing or neglecting to remedy any malpractices, misconduct or irregularities on the part of the office-bearers or members of such Association, on being noticed to do so in writing by the Secretary to the Ministry within such time as may be specified in such notice; or

(b) for inactivity, non-co-operation or obstruction in the implementation of the policies of the Ministry; or

(c) for failing to carry out its duties and functions.

In this section ** Secretary to the Ministry " includes the Director of Sports, an Assistant Director of Sports or an Assistant Secretary to the Ministry.

33. The Minister may make interim arrangements for continuing the functions of a National Association of Sports under suspension or whose registration has been refused or cancelled.

Interim arrangements.

34. (1) The Minister may, by Order published in the Gazette, order the dissolution of any National Association of Sports which has failed to apply for registration under section 29 or whose registration has been refused or cancelled

Dissolution of National Associations of Sports.

under section 32 and the office-bearers of such Association shall carry out such Order by dissolving and winding up the affairs of such Association within such time as shall be specified in such Order.

(2) The office-bearers of a National Association of Sports who fail or neglect to carry out an Order of dissolution under subsection (1) of this section, shall each 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 a term not exceeding one year or to both such fine and imprisonment.

(3) Where an Order of dissolution of a National Association of Sports has been made under subsection (1) of this section and where the time specified to carry out such Order has expired, any person who thereafter becomes or continues to be a member of such Association 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 a term not exceeding one year or to both such fine and imprisonment and to an additional fine not exceeding fifty rupees for each day he continues to be a member of such Association after such conviction.

35. The Minister may, if he considers it expedient to do so, revoke an Order of dissolution made on a National Association of Sports under section 34(i) and call upon the members of such Association to hold fresh elections and to remedy any malpractices, misconduct or irregularities, if any, and the Minister may thereafter, in his discretion, permit the registration or the re-registration of such Association, as the case maybe.

PART IV

ESTABLISHMENT OF SCHOOLS OF SPORTS

36. The Minister may establish one or more Schools of Sports for the purpose of—

- (a) imparting knowledge, instruction and training in sports and physical education,

- (b) holding examinations to ascertain the proficiency gained by students at such schools ; and

- (c) conferring and granting degrees, diplomas and certificates to those who have passed examinations conducted by such schools.

37. The Minister may by regulation prescribe—

- (a) schemes for admission to such schools;

- (b) schemes of study, training and examinations at such schools ; and

- (c) schemes for the appointment and payment of Directors, Assistant Directors, teachers, instructors and other officers of such schools, as may be necessary.

38. The Minister shall have the power—

- (a) to provide facilities and erect, maintain and equip any buildings at such schools for training, residential and other purposes of such schools;

- (b) to regulate and provide for the discipline and welfare of the students and staff of such schools ;

- (c) to provide for the granting of degrees, diplomas, and certificates by such schools; and

- (d) to provide for the admission of students to such schools.

Schemes for admission, schemes of study, &c., in Schools of Sports.

Power of Minister to provide facilities, regulate discipline in Schools of Sports.

Power to revoke Orders of dissolution.

Establishment of Schools of Sports.

PART V

GENERAL

39. (1) The Minister may make general Powers of the Minister. or special directions in writing to Councils,

Committees, Associations and other bodies established or registered under this Law, as to the exercise, discharge and performance of their powers, functions and duties, and such Councils, Committees, Associations and other bodies shall give effect to such directions.

(2) The Minister may, from time to time, direct Councils, Committees, Associations and other bodies, established or registered under this Law, to furnish to him, in such form as he may require, returns, accounts and other information in respect of their property and activities and such Councils, Committees, Associations and other bodies shall carry out every such direction.

(3) The Minister may, from time to time order all or any of the activities of Councils, Committees, Associations and other bodies, established or registered under this Law, to be investigated and reported on by such person or persons as he may specify, and upon such order being made, such Councils, Committees, Associations and other bodies shall afford all such facilities and furnish all such information, as may be necessary, to carry out every such order.

40. The Minister may regulate and control, by regulation, the participation in sports either in Sri Lanka or abroad, of individual participants or teams of players purporting to represent Sri Lanka.

41. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law and for all matters which are required by this Law to be prescribed or in respect of which regulations are required to be made.

(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 therein.

(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 such regulation which is not 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 any regulation made by the Minister is so deemed to be rescinded, shall be published in the Gazette.

42. Members of the National Sports Council and District Sports Committees established under this Law, 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.

43. In this Law, unless the context otherwise requires— Interpretation.

" a National Association of Sports means an association, federation or body which is the controlling or governing body of a sport or group of sports named under section 28 ;

" Minister " means the Minister to whom the subject or function of Sports has been assigned by the President, and

" Ministry " shall be construed accordingly;

" sport " or " sports " includes any form of sports, games, pastimes, physical training, body building and exercise which is recognized by the Secretary to the Ministry as a sport for the purposes of this Law.

Power of Minister to control participants in sports representing Sri Lanka.

Power to make regulations.

CHAPTER 436

SALVATION ARMY

Ordinance No. 11 of 1924. AN ORDINANCE TO VEST THE PROPERTY OF THE SALVATION ARMY IN THE GENERAL FOR THE TIME BEING OF THE SAID ARMY.

[27th June, 1924.]

Preamble.

Whereas by deed poll dated the 7th day of August, 1878, made by William Booth and duly recorded in the Chancery Division of Her Majesty's High Court of Justice in England, it was declared that a society had been formed under the name of the Christian Mission for the purposes mentioned in the said deed :

And whereas by another deed poll dated the 24th day of June, 1880, made by the said William Booth and duly recorded as aforesaid, it was declared that the name of the said society had been changed to " The Salvation Army ":

And whereas by another deed poll dated the 26th day of July, 1904, made by the said William Booth and duly recorded as aforesaid, the purposes and objects of the Salvation Army were more fully set forth and declared:

And whereas in and by the said deed poll it was declared that the General of the Salvation Army should have power to acquire any real and personal estate which might in his judgment be required for the purposes of the Salvation Army, and the said William Booth was declared the first General of the Salvation Army and provision was made for the appointment of subsequent Generals of the Salvation Army:

And whereas in and by a certain further deed poll dated the 30th day of January, 1891, it was declared that all moneys and other property contributed, collected, or received for the purposes of a social scheme called the " Darkest England " Scheme therein referred to (and the administration whereof was vested in the General for the time being of the Salvation Army under the

title of " Director " of such scheme) should be kept distinct from the other property of the Salvation Army and that all money and other property collected as aforesaid and the land investments and property for the time being representing the same should be held and applied upon the trusts in the said deed poll contained:

And whereas it was by the said last-recited deed poll further provided that the General of the Salvation Army for the time being should be at liberty to extend the benefit of the said scheme or of any part thereof to countries (other than the United Kingdom of Great Britain and Northern Ireland) from or for which contributions might be received due regard being had in the case of any such extension to the proportional amounts contributed from or for the different countries to which the said scheme was made to extend:

And whereas the said William Booth died on the 20th day of August, 1912, and William Bramwell Booth was duly appointed and still is the General of the Salvation Army in succession to the said William Booth:

And whereas the said William Booth acquired immovable property in this Island for the purposes of the Salvation Army, which immovable property was conveyed to and vested in the Salvation Army or in the said William Booth as General of the Salvation Army or in the General of the Salvation Army or his successors in office, and also acquired certain movable property:

And whereas the said immovable and movable property is now vested in William Bramwell Booth, successor to the said

William Booth as General of the Salvation Army, and it is now desirable to provide for the vesting of the said immovable and movable property in the General for the time being of the Salvation Army:

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

sell, mortgage, lease, exchange, partition, or otherwise dispose of and deal with all property (immovable as well as movable) which may for the time being be vested in or have been acquired by him under any of the provisions of this Ordinance.

6. No change of the person holding the office of General of the Salvation Army shall affect any immovable or movable property or any interest therein vested in "The General of the Salvation Army", but the same shall vest in the succeeding General of the Salvation Army in the same way and to the same extent as such property or interest vested in the former General of the Salvation Army.

Change of person holding office of General not to affect property and interest.

7. "The General of the Salvation Army" shall have power to appoint an attorney for such time and purposes and with such powers as may be stated in the power of attorney.

Power to appoint attorney.

8. Upon the lodging at the office of the Registrar-General of copies certified by the proper officer or sealed by the proper department of Her Majesty's High Court of Justice in England of documents purporting to be the appointment of and acceptance of office by a General of the Salvation Army, the person named in such appointment and acceptance shall be deemed "The General of the Salvation Army", until the recording and lodging of similarly certified copies of a new appointment and acceptance.

Who to be deemed General of the Salvation Army.

9. Nothing in this Ordinance shall prejudice or affect the rights of the Republic, or any body politic or corporate, or of any other person or persons, except such as are mentioned in this Ordinance and those claiming by, from, through, or under them.

Saving of the rights of the Republic and others.

Short title.

1. This Ordinance may be cited as the Salvation Army Ordinance.

General of the Salvation Army to be deemed a corporation sole.

2. The General of the Salvation Army for the time being shall be deemed a corporation sole and shall be known and described as "The General of the Salvation Army" and by this name shall have perpetual succession.

Immovable and movable property vested in General of Salvation Army.

3. All immovable and movable property in Ceylon and all interest therein now vested in the said William Bramwell Booth are hereby vested in "The General of the Salvation Army" to the same extent to which they vested in the said William Bramwell Booth prior to the commencement of this Ordinance.

Power of General of Salvation Army to acquire immovable and movable property.

4. "The General of the Salvation Army" shall have full power to acquire by purchase, transfer, donation, exchange, devise, bequest, grant, gift, conveyance, or otherwise any immovable or movable property in Sri Lanka or any estate or interest therein.

General entitled to sell, mortgage, Ac.

5. "The General of the Salvation Army" shall, subject to any restraint, reservation, or condition contained in the document under which he shall acquire title thereto, have full power and be entitled to

CHAPTER 193

SILK AND ALLIED PRODUCTS DEVELOPMENT

Law A LAW TO PROVIDE FOR THE DEVELOPMENT AND REGULATION OF SERICULTURE IN SRI
 No. 30 of 1975. LANKA; TO ESTABLISH A PUBLIC AUTHORITY KNOWN AS THE SILK AND ALLIED
 PRODUCTS DEVELOPMENT AUTHORITY AND TO REGULATE ITS POWERS AND
 FUNCTIONS : AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR
 INCIDENTAL THERETO.

[28th July. 1975.]

Short title. **1.** This Law may be cited as the Silk and Allied Products Development Law.

(v) the Director of Minor Export Crops Department or his representative; and

PART I

ESTABLISHMENT OF THE SILK AND ALLIED PRODUCTS DEVELOPMENT AUTHORITY

(vi) two representatives of the Minister in charge of the subject of Plantation Industry.

Establishment of the Silk and Allied Products Development Authority. **2.** (1) There shall be established an Authority which shall be called the Silk and Allied Products Development Authority (in this Law referred to as the " Authority. ").

(2) The Minister shall designate one of the members of the Authority as the Chairman of the Authority.

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

4. The quorum for any meeting of the Authority shall be four. *Quorum for meeting of the Authority.*

5. In the exercise, discharge and performance of its powers and functions the Authority shall be subject to direction and control by the Minister. *Authority subject to directions and control by Minister.*

Constitution of the Authority. **3.** (1) The Authority shall consist of the following members appointed by the Minister;—

6. Every member shall hold office for a period of five years, unless he is removed from, or otherwise vacates, office earlier: *Term of office of members*

(i) a representative of the Ministry charged with the subject of Plan Implementation;

Provided that a member appointed in place of a member who is removed from, or otherwise vacates, office shall hold office, unless he is earlier removed from or otherwise vacates office, for the unexpired period of the term of office of the member whom he succeeds.

(ii) a representative of the Ministry charged with the subject of Industries and Scientific Affairs ;

(iii) a representative of the Ministry charged with the subject of Overseas and Inland Trade ;

7. (1) A member may resign office by letter addressed to the Minister, *Resignation or removal of members.*

(iv) a representative of the Ministry charged with the subject of Finance;

(2) The Minister may, if he thinks it expedient to do so, remove a member from office without assigning any reason.

(3) Where a member 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 appoint some other person to act as member in his place.

(4). Any member of the Authority shall be eligible for reappointment.

Meetings of the Authority.

8. Subject to the other provisions of this Law, the Authority may regulate its procedure in regard to the meetings of the Authority and the transaction of business at such meetings.

Presidency at meetings of the Authority.

9. (1) The Chairman of the Authority shall preside at every meeting of the Authority at which he is present. In the absence of the Chairman at any meeting of the Authority, a member chosen by a majority of the members present shall preside at such meeting.

(2) The Chairman of any meeting of the Authority shall, in addition to his own vote, have a casting vote.,,

Acts or proceedings of the Authority deemed not to be invalid by reason of any vacancy or defect in the appointment of a member.

10. Any act or proceeding of the Authority shall not 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 of its members.

Remuneration of members of the Authority.

11. The members of the Authority may be remunerated in such manner and at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

Seal of the Authority.

12. (1) The Authority shall have a common seal which shall be in the custody of such person as the Authority may decide from time to time.

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

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of two members of the Authority, both of whom shall sign the instrument or document in token of their presence.

(4) The Authority shall maintain a register of the instruments or documents to which the seal of the Authority is affixed.

13. A member who is directly or indirectly interested in a contract proposed to be made by the Authority shall disclose the nature of his interest at a meeting of the Authority. The disclosure shall be recorded in the minutes of the Authority, and that member shall not take part in any deliberation or decision of the Authority with respect to such contract.

Members to disclose interest in contract proposed to be made by the Authority.

14. All members and employees of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Members and employees of the Authority deemed to be public servants.

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

16. (1) Subject to the provisions of this Law, the supervision, control and administration of the affairs and business of the Authority shall be vested in the Authority.

Authority vested with supervision, control and administration of its affairs and business.

(2) The Authority may delegate to any member of the Authority or to any employee of the Authority any of its powers or functions.

(3) Every person referred to in subsection (2) shall exercise or perform the power or function delegated to him subject to direction and control by the Authority.

PART II

FUNCTIONS AND POWERS OF THE AUTHORITY

17. The functions of the Authority shall be-

Functions of the Authority.

- (a) to promote, regulate and to undertake either by itself or jointly with any person or body of persons (whether corporate or not) the development of sericulture in Sri Lanka

including the cultivation of mulberry and other silkworm food plants and the production of silkworm seed and silk cocoons ;

- (b) to promote, regulate and to undertake either by itself or jointly with any person or body of persons (whether corporate or not) the development of silk and allied products;
- (c) to promote, regulate and to undertake either by itself or jointly with any person or body of persons (whether corporate or not) the reeling of silk cocoons for the production of raw silk, the throwing of raw silk and the manufacture of spun silk yarn;
- (d) to promote, regulate and to undertake either by itself or jointly with any person or body of persons (whether corporate or not) the weaving, dyeing and otherwise finishing of silk textiles and silk textile products;
- (e) to promote, regulate and to undertake either by itself or jointly with any person or body of persons (whether corporate or not) the marketing of silkworm seed, silk cocoons, raw silk, silk products, silk textiles, silk textile products and allied products;
- (f) to administer the Silkworm Seed Law;
- (g) 1.0 promote and to undertake research and experimental studies relating to the cultivation of mulberry and other silkworm food plants, the breeding and the rearing of silkworms, the reeling of silk cocoons, the production of raw silk, the throwing of raw silk, the manufacture of spun silk yarn and the production of silk textiles, silk textile products and allied products;
- (h) to provide and maintain an advisory and extension service;
- (i) to establish and enforce grading and packing standards;

(j) to engage in market research, sales promotion programmes, publicity and information activities;

(k) to take all such steps as may be necessary to provide or to procure or to facilitate the provision or the procuring of such facilities or, services as may be necessary or incidental to the functions described in the preceding paragraphs-

18. (1) The Authority shall have the Powers of the Authority power either by itself or jointly with any person or body of persons (whether corporate or not) to do all such acts and take all such steps as may be necessary for, or conducive or incidental to, the performance of its functions.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Authority shall have the power—

- (a) to 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) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Authority .all such contracts or agreements as may be necessary for, or conducive or incidental to» the performance of the functions and the exercise of the powers of the Authority ;
- (c) to construct, manufacture, purchase, maintain and repair anything necessary for, or conducive or incidental to, the performance of the functions of the Authority ;
- (d) to purchase, transport, store and supply any commodity, equipment or machinery necessary for, or conducive or incidental to, the performance of the functions of the Authority;
- (e) to train, or assist financially the training of, persons to do work necessary for, or conducive or incidental to, the performance of the functions of the Authority;

- (f) to provide services of any kind that may be necessary for, or conducive or incidental to, the performance of the functions of the Authority;
- (g) to levy fees or other charges for services performed, or facilities or equipment provided, by the Authority;
- (h) to provide assistance, including financial assistance through loans, guaranteeing of loans, subsidies and grants, to any person or body of persons (whether corporate or not) engaged in the cultivation of mulberry and other silkworm food plants, the rearing of silkworms, the production of cocoons, the reeling, throwing and spinning of silk, the weaving, dyeing and otherwise finishing of silk textiles, and the production of silk textile products and allied products;
- (i) to purchase, sell and otherwise engage in the marketing of silkworm seed, silk cocoons, raw silk, thrown silk, spun silk, silk waste, silk textiles, silk textile products and allied products;
- (j) to appoint, employ, remunerate and control such officers, servants and agents as may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Authority;
- (k) to provide financial assistance, welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Authority,
- (l) subject to the provisions of this Law, to make rules in respect of the administration of the affairs of the Authority; and
- (m) (i) to require any person to maintain true and accurate records, in a form and containing the particulars specified by the Authority, relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Authority;
- (ii) to require any person to furnish, within a specified period or time, all such returns, information and explanations as are within the knowledge of that person relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Authority;
- (iii) to require any person to produce or cause to be produced before a specified date such documentary or other evidence as the Authority may require for the purpose of verifying any facts, entered in any records maintained under sub-paragraph (i), or stated in any return, information or explanation furnished under sub-paragraph (ii); and
- (iv) to enter and inspect, at any reasonable time, any land, building, office, store, factory, shed or premises for the purpose of examining and verifying any records or for the purpose of verifying any particulars furnished in any return made or information or explanation given to the Authority under sub-paragraphs (i) and (ii).
- (3) Any person who fails, without reasonable cause, to comply with the provisions of sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii) of paragraph (m) of subsection (2), or who knowingly maintains false records or furnishes false returns, information, explanations, or documentary or other evidence, or who obstructs the Authority in

the exercise of the powers conferred on it by sub-paragraph (iv) of paragraph (m) of subsection (2), shall be guilty of an offence under this Law.

regulation made under this Law and approved by Parliament shall be guilty of an offence under this Law.

PART III

FINANCE AND ACCOUNTS OF THE AUTHORITY

Capital of the Authority.

19. (1) The initial capital of the Authority shall be five million rupees.

(2) The capital of the Authority may be increased from time to time by such amount as may be determined by the Minister after consultation with the Minister in charge of the subject of Finance and authorized by resolution of Parliament to be paid to the Authority for the purpose of increasing such capital.

Financial year of the Authority.

20. The financial year of the Authority shall commence on the first day of January of each year and terminate on the thirty-first day of December of that year.

Application of provisions of Public Corporations (Financial Control) Act.

21. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Authority.

PART IV

GENERAL

Regulations.

22. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law. 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.

(2) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for its 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.

(3) Any person who contravenes or attempts to contravene the provisions of any

23. (1) The Minister may by Order published in the Gazette, approve of the proposed acquisition of any land, or any interest in any land, other than State land, for any purpose of the Authority, and where such an order is so published, the land or ther interest in any land specified therein 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 Authority.

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. Authority shall be paid by the Authority.

24. (1) At the request of the Authority, 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 Authority, for such period as may be determined by the Authority with like consent or be permanently appointed to such staff.

Appointment of public officers to the staff of the Authority.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 44 (other than the provisions of paragraph (a) of that subsection) of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 44 of the Industrial Development Act shall, *mutafalis mutandis*, apply to and in relation to him.

(4) Where the Authority 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 Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Protection for action taken under this Law or on the direction of the Authority.

25. (1) No suit or prosecution shall lie—
 (a) against the Authority for any act which in good faith is done or purported to be done by the Authority under this Law ; or

(b) against any member, officer, servant or agent of the Authority 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 Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any such suit or prosecution shall be credited to the funds of the Authority.

(3) Any expense incurred by any such person as is referred to in paragraph (&) 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 Authority shall, if the court holds that such act was done in good faith, be paid out of the funds of the Authority, unless such expense has been advanced to such person by the Authority or such expense is recovered by him in such suit or prosecution.

No writ to issue against person or properly of a member of the Authority.

26. No writ against person or property shall be issued against' a member of the Authority in any action brought against the Authority.

Offences.

27. 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.

Minister's power to mitigate hardship.

28. If in the operation of this Law, any case shall arise in which, in the opinion of the Minister, substantial hardship is likely to be caused to any person by reason of an unintentional failure on the part of such person to observe any formality prescribed

by this Law or by any regulations made thereunder, the Minister may give such directions as may be necessary to mitigate or prevent such hardship.

29. 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 all other written law.

30. In this Law, unless the context otherwise requires—

Interpretation.

" allied product" means any product derived from mulberry or any other silkworm food plant and the silkworm but does not include raw silk;

"cocoon " has the same meaning as in the Silkworm Seed Law;

" Minister " means the Minister in charge of the subject . of Plantation Industry;

" raw silk " means reeled silk ;

" sericulture " means—

(a) the cultivation of mulberry or any other silkworm food plant for the purpose of rearing silkworms;

(b) the breeding and rearing of silkworm for the production of silkworm eggs or silk cocoons;and

(c) the reeling of silk cocoons for the production of raw silk ;

" silk textiles " means any fabric produced in whole or in part out of raw silk ;

"silkworm" has the same meaning as in the Silkworm Seed Law;

"silkworm seed" has the same meaning as in the Silkworm Seed Law.

CHAPTER 418

SIRI ANURADHAPURA BASTIAN PILGRIMS REST

Law A LAW TO INCORPORATE THE SIRI ANURADHAPURA BASTIAN PILGRIMS REST
 No. 15 of 1975. MANAGEMENT SOCIETY.

[17th March. 1975.]

Short title. **1.** This Law may be cited as the Siri Anuradhapura Bastian Pilgrims Rest Management Society Law.

conduct Buddhist activities with a view to instilling a sense of charity in the hearts of all those who visit the said Pilgrims Rest;

Incorporation. **2.** From and after the date of commencement of this Law, such and so many persons as now are members of the Siri Anuradhapura Bastian Pilgrims Rest Management Society, (hereinafter referred to as "the Society ") or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a Corporation (hereinafter referred to as "the Corporation") with perpetual succession under the style and name of "The Siri Anuradhapura Bastian Pilgrims Rest Management Society ", 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.

(d) to participate and assist with the consent of the majority of the Committee in the performance of meritorious deeds, such as alms-givings and Buddhist meetings and functions in Anuradhapura.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation as hereinafter provided, be administered by a Committee to be elected in accordance with the rules for the time being of the Corporation.

General objects. **3.** The general objects for which the Corporation is constituted are hereby declared to be:—

(2) The first Committee of the Corporation shall be the Committee of the Society holding office on the date of commencement of this Law.

(a) to efficiently maintain and manage, with the assistance of Buddhists, the Siri Anuradhapura Bastian Pilgrims Rest in accordance with the aims and objects for which the Pilgrims Rest was founded and to ensure the practical observance of the fundamental principles of Buddhism which has been the basis on which the said Pilgrims Rest has been maintained for the past fifty years;

5. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by the votes of at least two-thirds of the members present and qualified to vote at such meeting, to make rules 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 cancelled, subject, however, to the requirements of subsection (2).
 Rules of the Corporation.

(b) to vest in the Committee the control and management of the affairs 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

(c) to afford all facilities to Buddhist monks and pilgrims who visit the Pilgrims Rest and to organize and

qualified to vote at a general meeting of the Corporation and unless at least two weeks' prior notice of such alteration, addition, amendment or cancellation shall have been given to the members.

members of 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.

(3) The rules of the Society in force on the date of commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

8. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, 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 Law and subject to the rules for the time being of the said Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

(4) The members of the Corporation shall be subject to the rules of the Corporation.

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 and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

Debts due by and payable to the Corporation.

6. All debts and liabilities of the Society 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 all subscriptions and contributions payable to the Society, shall be paid to the Corporation.

Procedure for affixing the seal of the Corporation.

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two of the

CHAPTER 268

STATE AGRICULTURAL CORPORATIONS

Acts Nos. 11 of 1972, 20 of 1980.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION OR CORPORATIONS FOR THE PLANNING, CO-ORDINATION AND DEVELOPMENT OF AGRICULTURAL UNDERTAKINGS, TO REGULATE THE POWERS AND DUTIES OF SUCH CORPORATION OR CORPORATIONS AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[18 th March. 1972.]

Short title.

1. This Act may be cited as the State Agricultural Corporations Act.

being not less than three and not more than seven;

PART I

ESTABLISHMENT OF CORPORATIONS AND THEIR POWERS AND DUTIES

Establishment of Corporations.

2. (1) Where the Minister considers it necessary that a Corporation should be established for the purposes of the planning, promotion, co-ordination or development of any agricultural undertaking, the Minister may, with the concurrence of the Minister in charge of the subject of Planning and the Minister in charge of the subject of Finance, by Order (hereinafter referred to as the "Incorporation Order") published in the Gazette,—

(vii) appoint the members of the Board in accordance with the provisions of this Act;

(viii) appoint the Chairman of such Board in accordance with such provisions; and

(ix) appoint the Deputy Chairman of such Board in accordance with such provisions. [§ 2,20 of 1980-]

(i) specify the agricultural undertaking to which the Order relates ;

(ii) declare that a corporation shall be established for such purposes as may be deemed necessary ;

(iii) assign a corporate name to the Corporation and specify its objects ;

(iv) specify the initial capital of the Corporation;

(v) state the principal business of the Corporation;

(vi) fix the number of members of the Board of Directors of the Corporation, the number so fixed

(2) Upon the publication of the Incorporation Order in the Gazette, a Corporation (hereinafter referred to as the "Corporation ") consisting of the persons who are for the time being members thereof by virtue of section 9, with the corporate name specified in such Order, and with perpetual succession, shall be deemed to have been established.

(3) The Corporation may sue and be sued in its corporate name.

3. The objects of the Corporation shall be those specified in the Incorporation Order. Objects of the Corporation.

4. The principal place of business of the Corporation shall be that specified in the Incorporation Order: Principal place of business of the Corporation.

Provided, however, that the Minister may authorize the establishment of such branch offices of the Corporation as may be deemed necessary.

General powers of the Corporation.

5. (1) The Corporation shall have power to do anything necessary for or conducive or incidental to the carrying out of its objects.

(2) Without prejudice to the generality of the powers conferred by any other provisions of this Act, the Corporation shall have power—

- (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 appoint, employ, remunerate and control its officers, servants and agents and to direct and decide all matters connected with the administration of its affairs ;
- (c) to establish, maintain and provide welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Corporation;
- (d) to enter into and perform, either directly or indirectly, through any member, officer, servant or agent of the Corporation all such contracts or agreements as may be necessary for the exercise of the powers and the carrying out of the objects of the Corporation;
- (e) to make rules in relation to its officers and servants including their appointment, promotion, remuneration, disciplinary control and grant of leave and in respect of the administration of the affairs of the Corporation;
- (f) to delegate to any member, officer, servant or agent of the Corporation any such function of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of business;
- (g) to do anything necessary for the purpose of advancing the skill of persons employed by the

Corporation, or the efficiency of the equipment of the Corporation, or the manner in which that equipment is operated, including the provision by the Corporation, and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Corporation;

- (h) to formulate schemes to give effect to the objects of the Corporation;
- (i) to receive and disburse moneys for the accomplishment of the objects for which it is established ; and
- (j) to do other things which, in the opinion of the Corporation, are necessary to facilitate the proper carrying out of its objects.

6. (1) The Minister may, after consultation with the Board of Directors, give such Board general or special directions in writing as to the exercise of the powers of the Corporation, and the Board shall give effect to such directions.

Powers of the Minister.

(2) The Minister may, from time to time, direct in writing the Board of Directors 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 Corporation, and such Board shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Corporation to be investigated and reported upon by such person or persons as he may specify, and upon such order being made, the Board of Directors, any member, officer, servant or agent of the Corporation shall afford all such facilities, and furnish all such information, to such person or persons as may be necessary to carry out the order.

7. (1) The Corporation shall have a common seal which shall be in the custody of such person as the Board of Directors may, from time to time, determine.

Seal of the Corporation.

(2) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two members of

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the Board of Directors, both of whom shall sign the instrument or document in token of their presence.

(3) The Board of Directors shall maintain a register of the instruments or documents to which the seal of the Corporation is affixed.

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

General control of the Corporation and exercise of its powers.

8. (1) Subject to the provisions of this Act—

(a) the general supervision, control and administration of the affairs and business of the Corporation shall be vested in the Board of Directors; and

(b) such Board may exercise all the powers and perform all the duties and functions of the Corporation for the purpose of carrying out the objects of the Corporation.

(2) The Board of Directors may delegate to any Director, or to any officer, servant or agent of the Corporation, any of the powers, duties or functions of such Board, and such delegate shall exercise such powers, perform such duties or discharge such functions subject to the special or general directions of such Board.

Members of the Corporation.

9. The persons holding office for the time being as members of the Board of Directors shall be the members of the Corporation.

Board of Directors.

10. (1) The Corporation shall have a Board of Directors consisting of such number of persons as is fixed by the Incorporation Order and appointed by the Minister.

[§ 3, 20 of 1980.]

(2) The Minister shall appoint a Chairman and may appoint a Deputy Chairman of the Board of Directors from among the Directors.

(3) Every Director shall, subject to the provisions of subsection (8), hold office for a period of three years from the date of appointment:

Provided that a Director appointed in place of a Director who dies or resigns 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 Director whom he succeeds.

(4) Any Director may resign from the Board of Directors by letter addressed to the Minister.

(5) Any Director may be removed from office by the Minister without assigning a reason, and such removal shall not be called in question in any court nor shall such Director be entitled to any compensation for any loss or damage suffered by him, by reason of such removal.

(6) When a Director 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 another person to act as Director in his place.

(7) A Director shall vacate office by death, removal, resignation or effluxion of time.

(8) Any Director shall be eligible for reappointment.

11. A person shall be disqualified for being appointed or for continuing as a Director—

Disqualification for appointment as Directors.

(a) if he is a Member of Parliament; or

(b) if he directly or indirectly by himself or by any other 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 except as a shareholder (other than a Director) in any incorporated company; or

(c) if he directly or indirectly by himself or by any other person on his behalf has any interest or derives any benefit in or from any work being done for the Corporation except as a shareholder (other than a Director) in any incorporated company; or

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(d) if he becomes bankrupt or is adjudicated an insolvent.

Remuneration of Directors.

12. 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.

Director to disclose interest in contract proposed to be made by the Corporation.

13. 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 at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes of such Board, and that Director shall not take part in any deliberation or decision of such Board with respect to such contract.

Quorum for any meeting of the Board of Directors.

14. The quorum for any meeting of the Board of Directors shall be such number as may be determined by the Minister and, subject to the provisions of this Act, such Board may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

Board of Directors may act despite vacancy.

15. No act or proceeding of the Board of Directors shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

Chairman and Deputy Chairman of Board of Directors. [§ 4, 20 of 1980.]

16. The term of office of the Chairman or the Deputy Chairman of the Board of Directors shall be the period of his membership of such Board :

Provided, however, that the Chairman or the Deputy Chairman may earlier resign his office by letter addressed to the Minister, or the Minister may at any time, without assigning a reason, terminate the appointment of the Chairman or the Deputy Chairman.

Presidency at meetings. [§ 5, 20 of 1980.]

17. (1) The Chairman of the Board of Directors shall preside at every meeting of the Board at which he is present. In the absence of the Chairman from any meeting of such Board, the Deputy Chairman of the Board of Directors, or in the absence of the Deputy Chairman, or where no Deputy Chairman has been appointed, a Director chosen by the majority of the Directors present shall preside at such meeting.

(2) The Chairman of any meeting of the Board of Directors shall, in addition to his own vote, have a casting vote.

18. (1) the Board of Directors shall, with the prior approval of the Minister, appoint to the staff of the Corporation a General Manager.

General Manager.

(2) The appointment of a person as General Manager of the Corporation shall not be terminated, except with the prior approval of the Minister.

19. (1) At the request of the Board of Directors, 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 Corporation for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

Appointment of public officers to the staff of the Corporation.

(2) Where any officer in the public service is temporarily appointed to the staff of the Corporation, 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 officer in the public service is permanently appointed to the staff of the Corporation, 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.

(4) Where the Corporation 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 Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Board of Directors, any member of the Local Government Service or any officer or servant of any local authority may, with the consent of such member or officer or servant and the Local Government Service Advisory Board or that authority, as the case may be, be temporarily appointed to the

* Repealed by Law No. 19 of 1978.

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staff of the Corporation 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 the Local Government Service Advisory Board or authority.

(6) Where any member of the Local Government Service or any officer or servant of any local authority is temporarily appointed to the staff of the Corporation, he shall be subject to the same disciplinary control as any other member of such staff.

(7) (a) Where two or more Corporations have been established under this Act, any officer or servant of any such 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 any other such Corporation on such terms and conditions, including those relating to provident fund rights, as may be agreed upon by the Board of Directors of the two Corporations in question.

(b) Where any person is appointed whether temporarily or permanently under paragraph (a) of this subsection to the staff of any Corporation established under this Act, he shall be subject to the same disciplinary control as any other member of such staff.

Officers and servants of the Corporation deemed to be public servants.

20. 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.

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

21. 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 II

FINANCE AND ACCOUNTS

Capital of the Corporation.

22. (1) The capital of the Corporation shall be that specified in the Incorporation Order 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 Corporation shall be paid or made available to the Corporation 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 Corporation 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 Corporation 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.

23. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Corporation.

Application of the provisions of the Public Corporations (Financial Control) Act.

24. The Financial year of the Corporation shall be the calendar year.

Financial year of the Corporation.

PART III

GENERAL

25. (1) Where any immovable 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 for the Corporation.

(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.

26. (1) Where any immovable property of the State is required for the purpose 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

State property both movable and immovable to be made available to the Corporation.

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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.

(2) Where any movable property of the State is required for the purpose of the Corporation, the Minister may, by Order published in the Gazette, transfer to and vest in the Corporation the possession and use of such movable property.

27. Where the Minister is not satisfied with the financial position of the Corporation or the manner in which the affairs of the Corporation are being carried on, the Minister may, by Order published in the Gazette, dissolve the Corporation and appoint one or more persons to be the liquidator or liquidators of the Corporation.

28. The liquidator appointed under section 27 shall, subject to the directions of the Minister, have power to—

- (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.

29. (1) In the liquidation of the Corporation, the funds of the Corporation, including the General Reserve, 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 the 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 credited to the Consolidated Fund.

30. (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 in respect of all or any of the following matters:—

- (a) any matter in respect of which regulations are authorized by this Act to be made ; and
- (b) the prevention of theft of, or damage to, or the commission of nuisances on, any property used by the Corporation, and the imposition of penalties on, and the recovery of compensation from, persons responsible for such theft, damage or nuisance.

(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) Any person who contravenes any regulation made under this Act shall be guilty of an offence under this Act, and shall, on conviction after summary trial

Dissolution of the Corporation.

Liquidator's powers.

Regulations.

Closure of liquidation.

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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.

Powers of companies, &c., to enter into contracts with the Corporation.

31. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into, and perform or carry out, all such contracts and agreements with the Corporation as may be necessary for the exercise of the powers of the Corporation.

Protection for action taken under this Act or on the direction of the Board of Directors.

32. (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 is 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 is 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.

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

" agricultural undertaking " means an undertaking for the purposes of the import, purchase, production, processing, distribution, export, sale and promotion of any agricultural, horticultural or any animal produce, or any undertaking for the purpose of rearing livestock or poultry or any undertaking incidental to, or connected with or conducive to, any undertaking herein mentioned, and includes a State farm, a collective farm or a co-operative farm;

" Board of Directors " means the Board of Directors of the Corporation;

" Director " means a member of the Board of Directors;

" immovable property " means land and includes any interest in, or any benefit arising out of, any land, and any leasehold or other interest held by any person in any land, and also things attached to the earth or permanently fastened to anything attached to the earth ;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council.

CHAPTER 435

ST. ANDREW'S CHURCH

Ordinance AN ORDINANCE TO INCORPORATE THE TRUSTEES OF ST. ANDREW'S CHURCH, COLOMBO,
 No. 16 of 1916. AND TO VEST IN THEM THE TITLE TO THE SAID CHURCH AND PREMISES.

[18th July. 1916.]

Preamble. Whereas by a grant dated the 9th day of May, 1843, the Governor of Ceylon, for and on behalf of Her late Majesty Queen Victoria, gave, granted, and assigned the piece of land lying within the Fort of Colombo, whereon a church called and known as " St. Andrew's Church " was built, together with the said church and the session house and the boundary fence thereon existing, to the Reverend the Moderator of the General Assembly of the Church of Scotland and his successors for the time being, to the Reverend David Welsh, Convener of the Colonial Committee of the said General Assembly, and his successors in the said office of Convener for the time being, to William Young, Writer to the Signet, Edinburgh, Secretary to the said committee, and his successors in the said office of secretary for the time being, to the Reverend John G. Macvicar, Colonial Chaplain of the Scotch Church in Colombo, and his successors in the said office, to the Honourable Philip Anstruther and James Laing, Elders of the Scotch Church in Colombo, and their successors in the said office and others who might thereafter be in the said Eldership for the time being, to Captain W. Gregory, Royal Engineers, to J. Read, Merchant, to H. Ritchie, Merchant, and to Lieutenant E. Maberly, Royal Artillery (who are hereinafter referred to as " the original grantees "), to the end and effect that they the said W. Gregory, J. Read, H. Ritchie, and E. Maberly during the term of their natural lives and residence in the Island of Ceylon; and they the said the Reverend the Moderator, David Welsh, William Young, John G. Macvicar, Philip Anstruther, and James Laing, and others who might thereafter be Elders of the said

church in Colombo, during their tenure and occupation of the said offices and their successors in perpetual succession should hold the same in trust for the civil, military, mercantile, and other inhabitants of Ceylon professing the doctrine and discipline of the Presbyterian Church as by law established in Scotland, as a place of worship in connexion with the Established Church of Scotland, for the celebration of public worship, the preaching of the Word of God, the administration of the sacraments, and whatever rites and uses the duly ordained minister and Elders of the congregation worshipping therein might appoint, and for the accommodation of the aforesaid inhabitants on the terms on which Her Majesty or Her successors in office might determine, consistently with the privileges of the Kirk Session or of any presbytery or synod that might at any time thereafter be established in this Island :

And whereas by the Ordinance No. 18 of 1906,* intituled " An Ordinance to vest title to St. Andrew's Church, Colombo, in certain trustees and to empower them to sell the same " (after reciting that the said land, church, and buildings had become unsuited for the purposes for which the same were granted as aforesaid, and that it was necessary and expedient to sell the same, and to apply the proceeds of such sale in the purchase of other land and in the erection of a new church and buildings thereon; that certain of the original grantees had died; that presently the Reverend James Mitford Mitchell, Doctor of Divinity, was the Convener of the Colonial Committee aforesaid, Alexander Yellowlees was the secretary of the said committee, the Reverend Alexander Dunn was the Chaplain of the Scotch Church in Colombo,

* Omitted from this Edition.

and Alexander Stevenson, William Somerville, John Paterson, John Kyle, John Eunson, David Kinloch Michie, Alexander Fairlie, Robert Farquhar Spottiswood Hardie, William Hunter, and Cosmo Moray Gordon were the Elders of the Scotch Church in Colombo, in succession to the said holders of the said respective offices, and that they in such official capacity and the said the Reverend the Moderator purported to hold the said land, church, and buildings in trust as aforesaid under and by virtue of the said grant; and that doubts had arisen as to the legal title of the said holders to the said land, church, buildings, and premises, and as to their power to sell the same), the said land, church, buildings, and premises conveyed by the said grant were vested in the Right Reverend the Moderator of the General Assembly of the Church of Scotland, the said Reverend James Mitford Mitchell, Doctor of Divinity, Convener of the Colonial Committee of the said General Assembly, the said Alexander Yellowlees, Secretary to the said committee, the said Reverend Alexander Dunn, Chaplain of the Scotch Church in Colombo, and the said Alexander Stevenson, William Somerville, John Paterson, John Kyle, John Eunson, David Kinloch Michie, Alexander Fairlie, Robert Farquhar Spottiswood Hardie, William Hunter, and Cosmo Moray Gordon, Elders of the Scotch Church in Colombo, in trust for the purposes and objects and subject to the terms and conditions in the said grant contained ; and it was declared that it should be lawful for, and the power was thereby granted to them as trustees as aforesaid to sell and transfer the said land, church, buildings, and premises, to apply the proceeds of such sale in the purchase of other suitable land and in the erection of a new church and buildings to be called St. Andrew's Church; and it was further declared that the land to be purchased and the new church and buildings to be erected as aforesaid should be held by the said the Right Reverend the Moderator of the General Assembly of the Church of Scotland, the said Reverend James Mitford Mitchell, Convener of the Colonial Committee of the said General Assembly, the said Alexander Yellowlees, Secretary to the said committee, the said Reverend Alexander Dunn, Chaplain of the Scotch Church in Colombo, and the said Alexander

Stevenson, William Somerville, John Paterson, John Kyle, John Eunson, David Kinloch Michie, Alexander Fairlie, Robert Farquhar Spottiswood Hardie, William Hunter, and Cosmo Moray Gordon, Elders of the Scotch Church in Colombo (hereinafter referred to as "the new trustees "), and by their successors in office, in trust for the purposes and objects and subject to the terms and conditions in the said grant contained:

And whereas in pursuance of the power so conferred the new trustees did sell and transfer the said land, and church, and buildings, and premises, and with the proceeds of sale purchased the three allotments of land in the Schedule hereto fully described (hereinafter called "the new land ", which new land was by deed No. 9,048, dated the 21st May, 1906, attested by Frederick John de Saram of Colombo, Notary Public, conveyed to them individually by name and to the survivors and survivor of them, and the heirs, executors, and administrators of such survivor, their or his assigns, subject to a certain right of way in the said Schedule hereto particularized), and erected thereon a new church and other buildings, all of which are known as St. Andrew's Church:

And whereas of the new trustees the Reverend James Mitford Mitchell, John Kyle, and John Eunson have since died, and the new land and the new church and other buildings thereon are now by virtue of the last-mentioned conveyance vested in the survivors of them, who have requested that by an Ordinance of the Legislature they may be incorporated, and that the new land, together with the new church and buildings erected thereon, may be vested by such Ordinance in such corporation in trust as in the said grant and the said Ordinance No. 18 of 1906* declared, and it is proper and expedient to accede to the said request:

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Short title.
New St. Andrew's Church Ordinance.

* Omitted from this Edition.

Incorporation of trustees of St. Andrew's Church.

2. The trustees of the land described in the Schedule hereto and of the new church and buildings erected thereon, known as St. Andrew's Church and the " Manse " (such trustees being at present the Right Reverend the Moderator of the General Assembly of the Church of Scotland, the Convener of the Colonial Committee of the said General Assembly, the Secretary to the said committee, the Chaplain of the Scotch Church in Colombo, and the Elders of the Scotch Church in Colombo), and their respective successors in office, and the lawful holders for the time being of the said offices of Moderator, Convener, Secretary, Chaplain, and Elders, in their capacity of trustees of St. Andrew's Church, shall be a body corporate under the name of "The Incorporated Trustees of St. Andrew's Church ", and under the said 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, mortgage, lease, exchange, or otherwise dispose of and deal with the same, and may sue and be sued in their corporate name in all Courts of Justice.

unsuited to the objects of their trust, or if for any other reason whatsoever it shall appear to them in their discretion expedient, from time to time, to sell, free from the trust hereinbefore mentioned, the said property or any part thereof, and invest the proceeds of the sale in the purchase of other land and in the erection of suitable buildings in the place of those so sold, and all land so purchased and all buildings so erected shall be subject to the trust in the said grant contained.

5. The said Incorporated Trustees of St. Andrew's Church shall have a common seal, with power to change and alter the same at their pleasure. The said seal shall not be affixed to any instrument whatsoever except in the presence of not less than five, and in the case of a conveyance in pursuance of a sale under section 4 not less than eight, of the members 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 by any person as a witness.

Property declared vested in the corporation.

3. The three allotments of land adjoining each other and in the Schedule hereto described, together with the new church and buildings erected thereon known as St. Andrew's Church, and with all accessories and appurtenances thereunto belonging, subject to the right of way in the said Schedule also described, shall, anything contained in the said Ordinance No. 18 of 1906* to the contrary notwithstanding, be and are hereby vested in the said Incorporated Trustees of St. Andrew's Church, their successors and assigns, in trust for the purposes and objects and subject to the terms and conditions in the said grant contained.

6. (1) The said Incorporated Trustees of St. Andrew's Church may make rules regulating the methods by which the business of the corporation shall be conducted, the proceedings at meetings of the corporation, and the manner in which any difference of opinion arising at such meeting or otherwise may be determined.

(2) A copy of such rules purporting to be signed by the chaplain of the church for the time being shall be admissible in evidence in any Court of Justice, and all rules so authenticated shall be deemed to have been duly made until the contrary is proved.

Power of sale.

4. The said Incorporated Trustees of St. Andrew's Church shall have full power, if the property by section 3 vested in them or any property hereafter substituted in lieu thereof under this section shall become

7. Nothing in this Ordinance shall be deemed to affect the rights of the Republic, or of any persons or bodies corporate, except such as are mentioned in this Ordinance, and those claiming by, from, or under them.

* Omitted from this Edition.

SCHEDULE

[Section 3.]

1. All that allotment of land situated in Kollupitiya, in Ward No. 9 within the Municipality of Colombo, in the District of Colombo, Western Province, in the Island of Ceylon; bounded on the east by Government reserve and the lake, south by land described in plan No. 105,596, south-west by reservation for a road, north-west by the Moratuwa railway line; containing in extent 1 acre and 28 perches according to the survey and description thereof No. 105,595, dated April 6, 1877, and authenticated by Lieutenant-Colonel A.B. Fyers, R.E., Surveyor-General.

2. All that allotment of land situated in Kollupitiya aforesaid; bounded on the north by reservation for a road, east by reservation for a road and land described in plan No. 105,596, south by the property of Messieurs George Steuart and Company, west by the Kollupitiya road; containing in extent 1 acre and 4 perches according to the survey and description thereof No. 105,599, dated April 6, 1877, and authenticated by the said A.B. Fyers, Surveyor-General.

3. All that allotment of land situated in Kollupitiya aforesaid; bounded on the north by reservation for a road and land described in plan No. 105,595, east by the lake, south by the property of Messieurs George Steuart and Company, west by land described in plan No. 105,599; containing in extent 1 acre and 2 perches according to the survey and description thereof No. 105,596, dated April 6, 1877, and authenticated by the said A. B. Fyers, Surveyor-General.

The foregoing three allotments of land are subject to the reservation in favour of William Anderson, Thomas Shuckforth Grigson, Edward Snape Grigson, and Cosmo Moray Gordon, as owners of the premises called Wekande Mills, and of the owner or owners for the time being of the said mills, and their and his tenants, servants and employees, of a right of way and passage over the said allotments, with or without horses and other cattle, carts, carriages, and other vehicles of every description between the points and along the course marked on a certain survey plan, dated May 18, 1906, made by George C. de Saram, Licensed Surveyor and Leveller, and attached to the conveyance of the said allotments of land by the said William Anderson, Thomas Shuckforth Grigson, Edward Snape Grigson, and Cosmo Moray Gordon, bearing No. 9,048, dated May 21, 1906, attested by Frederick John de Saram, Notary Public, and duly registered A 81/388 and A 86/333.

CHAPTER 604

SPECIAL AREAS (COLOMBO) DEVELOPMENT

Ordinance AN ORDINANCE TO ENABLE THE COMPULSORY ACQUISITION AND REDEVELOPMENT OF
 No. 40 of 1947, AREAS IN COLOMBO CONSISTING WHOLLY OR PARTLY OF LANDS ON WHICH
 Acts DEMOLITION OPERATIONS HAVE BEEN CARRIED OUT UNDER EMERGENCY
 Nos- 9 of 1950, POWERS; TO ESTABLISH AND INCORPORATE A BOARD WITH POWER TO CARRY
 4 of 1951, OUT OR TO SUPERVISE AND REGULATE THE REDEVELOPMENT OF SUCH AREAS;
 41 of 1952, AND TO PROVIDE FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS
 16 of 1954, AFORESAID.
 22 of 1955,
 56 of 1961.

[1st October, 1947.]

Short title. **1.** This Ordinance may be cited as the Special Areas (Colombo) Development Ordinance. needed for a public purpose and be liable to compulsory acquisition; and accordingly the Government Agent shall—

PART I

COMPULSORY ACQUISITION OF SPECIAL AREAS

Declaration of special areas. **2.** (1) Where the Minister is satisfied that any area within the town of Colombo, consisting of one or more lands on which demolition operations have been carried out under emergency powers or of one or more such lands together with any road or roads adjacent thereto and any other land or lands contiguous to any such land or any such road, should, in the interests of the public health or safety or of the amenities of the neighbourhood, be laid out and developed afresh, he may, by Order published in the Gazette, declare the area to be a special area for the purposes of this Ordinance.

(2) An Order declaring a special area under this section may define the area by setting out the assessment number or the metes and bounds of the land or each of the lands comprised in the area.

Government Agent to take order for the acquisition of land in special areas. **3.** (1) Where any area within the town of Colombo is declared to be a special area by Order published in the Gazette under section 2, the land or every land comprised in that area shall be deemed to be land

- (a) forthwith take order for the acquisition of the land or each of the lands in that special area on which demolition operations have been carried out under emergency powers; and
 - (b) save as otherwise expressly provided by section 8, upon the expiry of a period of three months after the date of the publication of such Order, take order for the acquisition of any other land in that special area.
- (2) Nothing in the preceding provisions of this section shall apply to any land which forms a road or a portion of a road vested in the Council.

4. (1) Where the Government Agent considers that it is necessary for the purposes of section 3 that an inspection, examination or survey should be made of any land situated within the limits of any special area, it shall be lawful for the Government Agent or any person acting under the written authority of the Government Agent, together with such servants and workmen as may be necessary, to enter upon and to survey and take levels of that land or of any land in the same locality, to mark the levels and boundaries of that land, and to do all such other Powers of the Government Agent.

acts as may be necessary for the purposes of such inspection, examination or survey:

Provided, however, that no person shall enter or do any act upon any land in pursuance of the powers conferred by the preceding provisions of this section except with the consent of the owner or occupier of that land, or after giving to such owner or occupier, not less than seven days' notice of his intention to enter that land or to do such act thereon.

(2) The Government Agent may, for the purposes of section 3, cause a notice to be served on any person requiring that person to furnish before a specified date such returns or information relating to the title of that person to any land situated within the limits of any special area or to such other matters affecting such land as may be within the knowledge of that person.

Land Acquisition Act to apply subject to certain exceptions, Ac.

5. (1) Where the Government Agent is required by this Ordinance to take order for the acquisition of any land, the provisions of the Land Acquisition Act, subject to the exceptions, substitutions and modifications set out in the First Schedule to this Ordinance, shall apply for the purposes of such acquisition; and any sum of money which may, under this Ordinance or under such provisions, be required to be paid or deposited by the Government Agent or by the Government by way of rent, compensation, costs or otherwise, shall be paid out of funds provided for the purpose by Parliament.

(2) The Land Acquisition (War Purposes) (Assessment of Compensation) Ordinance, No. 21 of 1944, shall not apply for the purpose of determining the compensation to be awarded under the Land Acquisition Act in respect of the acquisition under that Act of any land in any special area.

Determination of compensation under Defence (Compensation) Regulations.

6. (1) Where in the case of any land referred to in section 3 (1) (a) any dispute with respect to any compensation or the amount of any compensation payable under paragraph (b) of regulation 2 (I) of the Defence (Compensation) Regulations, 1941, arises after the 1st day of December, 1952, or had arisen prior to the 1st day of

December, 1952, but had not prior to that date been referred for determination as provided in regulation 7 of those regulations, then, notwithstanding anything in those regulations, the dispute shall, in default of agreement, be referred to and determined by the board of review constituted under the Land Acquisition Act.

Any such dispute may be heard at an ordinary meeting of the board of review.

(2) Regulations 7 and 9 of the Defence (Compensation) Regulations, 1941, and the Defence Compensation (Tribunals) Rules, 1943, shall apply in relation to the determination of any dispute referred to the board of review under subsection (1)—

(a) subject to the modification that all references therein to a tribunal or to the President or Registrar of the tribunal shall be construed as if they were references to the board of review or to the chairman or the secretary of the board of review, as the case may be; and

(b) subject to such other modifications as the Minister in charge of the subject of Justice may make for that purpose by Order published in the Gazette.

7. (1) Where an Order in respect of any land referred to in section 3 (1) (a) is not published in the Gazette under section 38 of the Land Acquisition Act while such land is in the possession of any authority under emergency powers, the Government Agent is hereby empowered and required, forthwith upon the termination of the possession of such land under emergency powers, to take possession of such land and to retain such possession until possession of such land is taken on behalf of the State under section 40 of that Act.

Power of Government Agent to take and retain possession of lands.

(2) Where possession of any land referred to in section 3 (1) (a) is retained by the Government Agent under subsection (1), rent for the period during which such possession is so retained shall be payable by the board to the person who for the time being would be entitled to occupy such land but for the fact that possession thereof is so retained and the rent so payable shall be a sum equal to the rent which might

[§ 2, 56 of 1961.]

reasonably be expected to be payable by a tenant in occupation of such land during that period 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 such land in a state to command that rent.

Payment of compensation under the Defence (Compensation) Regulations, 1941. In respect of lands in special areas. [§ 3, 56 of 1961.]

7A. Any compensation payable by the State to any person under paragraph (b) of regulation 2 (I) of the Defence (Compensation) Regulations, 1941, in respect of any land referred to in section 3 (1) (a) may, if such compensation has not been already paid by the State to such person, be paid to such person by the board for and on behalf of the State. The payment of such compensation to such person by the board under the preceding provisions of this section shall operate as a satisfaction in full of such person's claim to such compensation from the State.

POSTPONEMENT OF AND EXEMPTION FROM COMPULSORY ACQUISITION

Postponement of compulsory acquisition.

8. The owner of any land referred to in paragraph (b) of section 3 (1) may, before the expiry of the period of three months specified in that paragraph, serve a notice on the Government Agent requiring him to postpone the compulsory acquisition of such land until the coming into operation of a development scheme prepared under this Ordinance for the special area in which the land is situated ; and in such case, the Government Agent shall, unless the Minister by order made under section 10 exempts such land from compulsory acquisition, take order for the acquisition of such land on the coming into operation of such scheme.

Exclusion of claims for compensation for improvements.

9. In the event of any land the compulsory acquisition of which has been postponed by reason of the operation of the provisions of section 8 being ultimately acquired under this Ordinance, then, notwithstanding anything in any written or other law, no person shall be entitled to claim or receive any compensation from the Government Agent or the Government or

the authority in whom such land is vested as hereinafter provided in respect of any improvements made in or upon such land or any structure thereon after the expiry of the period of three months referred to in that section.

Exemptions from compulsory acquisition.

10. (1) The owner of any land in any special area, being land the compulsory acquisition of which has, by reason of the operation of the provisions of section 8, been postponed until the coming into operation of a development scheme for that area, may, before the expiry of a period of twenty-one days after the date of the publication in the Gazette of a notice under section 15 of the completion of the preparation of the scheme, apply in writing to the Minister for the exemption of that land from compulsory acquisition.

(2) Upon the receipt of an application for the exemption from compulsory acquisition of any land, the Minister may make order exempting or refusing to exempt such land from such acquisition.

(3) No order exempting from compulsory acquisition any land in any special area shall be made by the Minister under this section if the draft development scheme prepared under this Ordinance for that area provides—

- (a) for the use of such land or any portion thereof for the construction of a new road or for the widening, alteration, extension or diversion of an existing road or as a public open space; or
- (b) for the adjustment or reconstitution of the boundaries of such land.

(4) No order refusing to exempt from compulsory acquisition any land in any special area shall be made by the Minister under this section unless the draft development scheme prepared under this Ordinance for that area provides—

- (a) for the use of such land or any portion thereof for the construction of a new road or for the widening, alteration, extension or diversion of an existing road or as a public open space; or

(b) for the adjustment or reconstitution of the boundaries of such land.

(5) Before making an order under this section refusing to exempt from compulsory acquisition any land in respect of which an application for such exemption has been made, the Minister shall give the applicant an opportunity of being heard, either in person or by a representative duly authorized by such applicant in that behalf.

(6) Every order made by the Minister under this section on any application for exemption from compulsory acquisition of any land shall be final and conclusive. The Minister shall cause a copy of such order to be served on the applicant and the Government Agent.

(7) (a) The Minister may, for the purposes of this section, cause a notice to be served on any person requiring that person to furnish before a specified date such returns or information relating to the title of that person to any land in respect of which an application for exemption from compulsory acquisition has been made or to such other matters affecting such land as may be within the knowledge of that person.

(b) Where the Minister considers that it is necessary for the purposes of this section that an inspection or examination should be made of any land in respect of which an application for exemption from compulsory acquisition has been made, it shall be lawful for the Minister or any person acting under the written authority of the Minister to enter upon such land and to do all such acts as may be necessary for the purposes of such inspection or examination :

Provided, however, that no person shall enter or do any act upon any land in pursuance of the powers conferred by the preceding provisions of this paragraph except with the consent of the owner or occupier of that land, or after giving to such owner or occupier, not less than seven days' notice of his intention to enter that land or to do such act thereon.

Condition of exemption from compulsory acquisition.

11. (1) It shall be a condition of every exemption from compulsory acquisition granted in respect of any land in any special area under section 10 that the owner of such

land shall, in lieu of the executive authority specified in the draft development scheme prepared for that area, carry out the provisions of that scheme in so far as they relate to such land at his own expense, and for that purpose, do all such work and take all such measures in, upon or in relation to such land or any structure thereon as may be necessary.

(2) For the purposes of this section, "owner" in relation to any land in respect of which an exemption from compulsory acquisition has been granted under section 10, means the owner of the land at the time of the granting of such exemption or any other person who may subsequently become the owner thereof.

PART II

PREPARATION AND EXECUTION OF DEVELOPMENT SCHEMES

12. (1) Upon the publication of an Order declaring a special area under section 2, it shall be the duty of the board hereinafter constituted and incorporated by this Ordinance, acting in consultation with the Director, Town and Country Planning and the Government Chief Valuer, to prepare a draft development scheme for that area.

Preparation of development schemes.

(2) Where the Minister is satisfied that the board has failed to prepare or unreasonably delayed the preparation of a draft development scheme for any special area, the Minister may direct the Director, Town and Country Planning to prepare the draft scheme for that area,

13. (1) A development scheme prepared under this Ordinance for any special area shall have as its sole object the redevelopment of the area as a whole and shall not provide for any matter other than the following or such other matters as may be necessary for the purpose of achieving that object:—

Contents of development schemes.

(a) The construction of new roads or the widening, alteration, extension, diversion, stopping up or improvement of existing roads, and the reservation of land for the

SPECIAL AREAS (COLOMBO) DEVELOPMENT

construction of new roads or for the widening, extension, alteration or diversion of existing roads.

- (b) The construction of works (including the erection of structures) for the provision of public services including—
 - (i) surface water drainage, sewerage and the disposal of sewage;
 - (ii) lighting and the position and design of lamps and standards; and
 - (iii) water supply.

- (c) The reservation of land for public open spaces and the regulation or prohibition of the erection of structures thereon.

Slum clearance including the demolition or alteration of insanitary, overcrowded, unhealthy or dangerous dwelling houses or other structures.

- (e) The demolition of structures which are inconsistent with the scheme and the alteration of structures so as to bring them into conformity with the scheme.
- (f) The construction of all such new structures in or upon any land as may be necessary for the purpose of ensuring the redevelopment of the area as provided in the scheme.

The adjustment or reconstitution of the boundaries of any plots of land which, by reason of their inconvenient shape or size, are likely to hinder the redevelopment of the area as provided in the scheme.

- (g) The prohibition or restriction of the use of land for any specified purpose.
- (i) The restriction, regulation and control of the erection, re-erection,

alteration, demolition and use of structures, and in particular for the matters specified in the Second Schedule to this Ordinance.

(2) In addition to the matters specified in subsection (1), a development scheme prepared under this Ordinance for any special area shall specify the executive authority who is to be responsible for the carrying out of any provision contained in that scheme. The authority so specified may be the board, the Council, the Director of Highways or the General Manager of the Ceylon Electricity Board.

(3) In addition to the matters specified in subsections (1) and (2), a development scheme may provide that any road or portion of a road which is vested in the Council shall be vested in the board for the purposes of the scheme.

(4) A development scheme prepared under this Ordinance for any special area shall be accompanied by a plan showing in detail the proposed new layout of the area as contemplated in that scheme.

14. (1) In addition to the matters specified in section 13, a development scheme prepared under this Ordinance for any special area may, where it is necessary for the purpose of giving effect to the scheme, provide for the modification or the suspension of the operation of any provision of any other written law in so far as that provision is similar to or inconsistent with any provision contained in that scheme.

Modification or suspension of other written law.

(2) Where any provision of any other written law is modified by any development scheme for the time being in operation, that provision shall, in its application to the special area to which the scheme relates, apply subject to such modifications as may be specified in that scheme.

(3) Where any provision of any other written law is suspended by any development scheme for the time being in operation, that provision shall not apply in the special area to which the scheme relates.

Noi Ice of completion of preparation of draft development scheme and inspection of schme.

15. (1) Upon the completion of the preparation of any draft development scheme under section 12, it shall be the duty of the board forthwith—

- (a) to cause copies of such draft scheme and of the plan accompanying such draft scheme to be prepared ;
- (b) to transmit to the Minister a copy of such draft scheme and of the plan accompanying such draft scheme; and
- (c) to cause a notice to be published in the Gazette and in such other manner as may be best calculated to give publicity thereto, to the effect that the preparation of such draft scheme has been completed and that copies of such draft scheme and of the plan accompanying such draft scheme will be open for public inspection at such place or places as may be specified in such notice.

(2) Copies of every draft development scheme which has been completed under section 12 and of the plan accompanying such scheme shall be open for public inspection, free of charge, for a period of twenty-one days after the date of the publication in the Gazette of notice of the completion of the preparation of such scheme.

Sanction of development scheme by Minister.

16. Upon the transmission of a draft development scheme to the Minister under section 15 and after the disposal under section 10 of the applications, if any, for exemption from compulsory acquisition made in respect of lands in the special area to which the scheme relates, the Minister may sanction the scheme subject to such modifications or alterations as he may deem necessary.

Approval of development scheme by Parliament.

17. Where any draft development scheme modifies or suspends, or purports to modify or suspend, the operation of any provision of any enactment for the time being in force such scheme shall not be sanctioned by the Minister until it has first been placed before and approved by Parliament.

18. Every development scheme which has been sanctioned by the Minister shall come into operation upon the expiry of a period of fifteen days after the date on which a Notification is published in the Gazette by the Minister to the effect that the scheme has been so sanctioned, or upon such later date as may be specified in such Notification by the Minister.

Coming into operation of development schemes.

19. (1) Upon the coming into operation of any development scheme for any special area, it shall be the duty of the executive authority specified in the scheme as the authority responsible for the carrying out of any provision contained in (he scheme, save as otherwise expressly provided by section 20 or section 25, to carry out that provision, and for that purpose, to do all such work and to take all such measures in, upon or in relation to any land in that area or any structure thereon as may be necessary and all expenses incurred thereby by such authority shall be paid out of the fund of the board.

Execution of development schemes by executive authorities.

(2) Where the Minister is satisfied that the executive authority responsible for the carrying out of any provision contained in any development scheme for the time being in operation for any special area has unreasonably delayed to carry out that provision, the Minister may, by order, direct that authority to do all such work and to take all such measures in, upon or in relation to any land in that area or any structure thereon as may be necessary for the purpose, within such time as may be specified in such order, and it shall be the duty of that authority to comply with such order.

(3) For the purpose of doing any work or taking any measures in, upon or in relation to any land or structure thereon under the preceding provisions of this section, it shall be lawful for the executive authority responsible for the carrying out of any provision contained in any development scheme for the time being in operation or any person acting under the written authority of that executive authority to enter into or upon such land or structure, together with all such workmen, implements and materials as may be necessary for the purpose.

Execution of development schemes by owners of lands.

20. (1) Upon the coming into operation of any development scheme for any special area, it shall be the duty of the owner of any land in that area, being land which has been exempted from acquisition by order made by the Minister under section 10, to carry out the provisions of that scheme in so far as they relate to such land at his own expense, and for that purpose, to do all such work and to take all such measures in, upon or in relation to such land or any structure thereon as may be necessary.

(2) Where the board is satisfied that the owner of any land referred to in subsection (1) has unreasonably delayed to carry out the provisions of any development scheme for the time being in operation in so far as they relate to such land, it shall be lawful for the board or any person acting under the written authority of the board to enter into or upon such land or any structure thereon together with all the necessary workmen, implements and materials, and to do all such work and to take all such measures in, upon or in relation to such land or structure as may be necessary for the purpose of carrying out those provisions.

(3) AH expenses incurred by the board in the doing of any work or the taking of any measures under subsection (1) in, upon or in relation to any land or any structure thereon shall be a first charge on such land, and may be recovered from the owner thereof in such manner as may be provided by regulation.

Conditions relating to the exercise of the powers conferred by sections 19 and 20.

21. (1) No work or measures shall be done or taken by the board or by any other executive authority in pursuance of the powers conferred by section 19 or section 20 (2) in, upon or in relation to any land which is not vested in the board or any structure thereon, unless—

- (a) the doing of such work or the taking of such measures is necessary for the purpose of carrying out any provision contained in the development scheme for the time being in operation for the special area in which such land is situated ; and

- (b) the board or such other executive authority, as the case may be, has served on the owner and the occupier of such land a notice specifying the work which is to be done or the measures which are to be taken, and a period of at least one month has elapsed after the date of the service of the notice.

(2) Any person on whom a notice is served under subsection (1) may, subject to regulations, appeal to the Minister against the proposal of the board or any other executive authority to do any work or to take any measures to which the notice relates, and the decision of the Minister on such appeal shall be final and conclusive. In any case where any appeal is preferred to the Minister under this section, the period referred to in paragraph (b) of subsection (1) shall be deemed to be extended to the date on which the decision of the Minister is communicated to the person by whom the appeal is preferred.

PART III

VESTING AND DISPOSAL OF LANDS

22. (1) Where any land is acquired under this Ordinance, such land shall forthwith upon such acquisition, without any formal transfer thereof, vest in the board for the purposes of a development scheme prepared under this Ordinance for the special area in which such land is situated.

Land acquired under this Ordinance to be vested in board-

(2) Where, by reason of the operation of the provisions of subsection (1), any land is vested in the board for the purposes of a development scheme, the board may, pending the execution of such scheme, let such land or any structure thereon.

23. (1) Where any development scheme under this Ordinance provides that any road or a portion of any road which is vested in the Council shall be vested in the board for the purposes of such scheme, such road or portion of a road, as the case may be, together with the lands used for the purposes thereof and all lamps, lamp-irons, lamp-posts, pipes and other similar

Vesting of roads in the board.

erections and things in, about or belonging thereto, shall forthwith upon the coming into operation of such scheme, without any formal transfer thereof, vest in the board for the purposes of such scheme.

(2) No compensation shall be payable by the board in respect of any property which vests in the board by reason of the operation of the provisions of subsection (1).

Sale or lease of lands by the board.

24. The board may, at any time after the coming into operation of any development scheme, sell or lease any land which is vested in the board under this Ordinance and is not required, under the scheme, as a reservation for the construction of a new road or for the widening, extension, alteration or diversion of an existing road or for a public open space.

Conditions of sale or lease of lands by the board.

25. (1) It shall be a condition of every sale of land in any special area under section

(a) that, in lieu of the executive authority specified in the development scheme for the time being in operation for that area, the owner of the land shall at his own expense carry out the provisions of the scheme in so far as they relate to the land, and do all the necessary work and take all the necessary measures in, upon or in relation to such land or any structure thereon within such time as the board may, after consultation with the Minister, specify in writing at the time of the sale; and

(b) that in the event of the owner failing to do so within the time so specified, the land shall forthwith revert in the board.

Where any land reverts in the board by reason of the operation of the preceding provisions of this subsection, the board shall pay, to the person who was the owner of the land, the price at which the land was sold by the board or the market value of the land at the time of such reversion, whichever is less, together with compensation in respect of any work actually done or measures

actually taken by that person for the purpose of carrying out the provisions of the development scheme.

(2) It shall be a condition of every lease of land in any special area under section 24-

(a) that, in lieu of the executive authority specified in the development scheme for the time being in operation for that area, the lessee of the land shall at his own expense carry out the provisions of the scheme in so far as they relate to the land, and do all the necessary work and take all the necessary measures in, upon or in relation to the land or any structure thereon within such time as the board may, after consultation with the Minister, specify in writing at the time of the grant of the lease; and

(b) that in the event of the lessee failing to do so within the time so specified, the lease shall terminate forthwith.

Where any lease of land terminates by reason of the operation of the preceding provisions of this subsection, the board shall pay, to the person who was the lessee of the land, compensation in respect of any work actually done or measures actually taken by that person for the purpose of carrying out the provisions of the development scheme.

(3) No compensation under either of the preceding subsections shall be payable by the board unless the work has been done or the measures have been taken in conformity with the provisions of the development scheme then in operation in relation to the land.

(4) For the purposes of this section, "owner" in relation to any land which is sold by the board under section 24, means the person to whom the land is sold or any other person who may subsequently become the owner of the land.

26. It shall be lawful for the board or any person acting under the written authority of the board to enter into or upon

Power of board to enter, &c., land sold or leased.

any land which is sold or leased under section 24 for the purpose of ascertaining whether the provisions of any development scheme for the time being in operation in relation to the land are being or have been carried out on the land and to inspect the land or any structure thereon for that purpose:

" Provided, however, that no person shall enter or inspect any land in pursuance of the powers conferred by the preceding provisions of this section except with the consent of the owner, lessee or occupier of the land, or after giving to such owner, lessee or occupier, not less than seven days' notice of the intention to do so.

Roads to vest in Council.

27. (1) Upon the completion of the construction, under any development scheme for the time being in operation, of any new road or any new portion of an existing road, such new road or new portion of an existing road, as the case may be, together with the lands used for the purposes thereof and all lamps, lamp-irons, lamp-posts, pipes and other similar erections and things in, about or belonging thereto, shall forthwith, without any formal transfer thereof, vest in the Council.

(2) No compensation shall be payable by the Council in respect of any property which vests in the Council by reason of the operation of the provisions of subsection (1).

PART IV

BETTERMENT CONTRIBUTIONS

Power to recover betterment contributions.

28. (1) Where the value of any property is increased by the coming into operation of any development scheme, or by the execution of any work under the provisions of a development scheme, the board may, subject to the provisions of subsection (3), recover from the owner of the property an amount (hereinafter referred to as " betterment contribution ") not exceeding sixty *per centum* of the amount by which the value of the property is so increased.

(2) A betterment contribution may be recovered from the owner of any property the value of which is increased by the coming into operation of any development scheme or by the execution of any work under any provision in that scheme, notwithstanding that such property is situated outside the limits of the special area to which the scheme relates.

(3) (a) No betterment contribution shall be recovered in respect of any property which is sold or leased by the board under section 24.

(b) No betterment contribution shall be recoverable in respect of any property unless the board has, before the expiry of a period of ten years after the date on which the development scheme in respect of which the betterment contribution is recoverable came into operation, served a notice in the prescribed form on the owner of that property specifying the amount claimed as betterment contribution.

29. (1) In any case where the owner of any property is aggrieved by the decision of the board to recover a betterment contribution in respect of that property, he may, subject to regulations, appeal to the District Court, or, where the amount sought to be recovered as a betterment contribution does not exceed one thousand five hundred rupees, to the Primary Court, and such court may on any such appeal—

Appeal against levy of betterment contribution.

(a) determine that no contribution shall be recovered, if satisfied that the recovery of the contribution in such case is not authorized by the provisions of section 28 ; or

(b) reduce the amount of the contribution sought to be recovered, if satisfied that that amount is excessive having regard to the provisions of subsection (1) of that section.

(2) The determination of the District Court or the Primary Court on any appeal referred to in subsection (1) shall be final.

Payment of betterment contribution.

30. (1) The amount due as a betterment contribution in respect of any property shall be payable in such instalments and at such intervals as the board may determine.

(2) Any instalment due in respect of any property under this section shall be a first charge on that property and may be recovered from the person who is the owner of that property for the time being in such manner as may be provided by regulation.

PART V

ESTABLISHMENT OF THE COLOMBO SPECIAL AREAS DEVELOPMENT BOARD

THE BOARD

Establishment of Colombo Special Areas Development Board.

31. (1) A board to be called the Colombo Special Areas Development Board (in this Ordinance referred to as "the board") is hereby established for the purposes of this Ordinance.

(2) The board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name. It shall, subject to the provisions of this Ordinance, be capable of acquiring, holding and alienating property, movable and immovable, and of doing and performing all such acts and things as bodies corporate may do and perform.

Objects of the board.

32. The general objects for which the board is constituted are hereby declared to be -

- (1) the preparation and execution, under this Ordinance, of development schemes for special areas ; and
- (2) the custody, management and control, pending the coming into operation of development schemes, of land which is vested in the board under this Ordinance for the purposes of such schemes.

Common seal of the board.

33. The common seal of the board shall be officially and judicially noticed and shall be kept by such person and in such manner as the board may, from time to time,

determine and shall not be used except by the authority of the board and in the presence of at least two members thereof who shall sign the document to which the seal is affixed.

34. The board shall consist of the following members:—

Constitution of the board.

(a) Ex-officio members :—

- (i) The Deputy Secretary to the Treasury.
- (ii) The Solicitor-General.
- (iii) The Commissioner of Local Government.

(b) Nominated members :-

- (i) Two whole-time salaried officers of the Government, nominated by the Minister.
- (ii) Four persons, each of whom shall be either a whole-time salaried officer of the Council or a member of the Council, nominated by the Minister.

35. (1) The Minister may appoint one of the members of the board to be the chairman of the board.

Chairman and deputy chairman of board-

(2) The members of the board may, if they think necessary, elect from amongst their number a deputy chairman.

(3) The chairman of the board shall preside at every meeting of the board at which he is present.

(4) In the absence of the chairman, the deputy chairman shall preside at meetings of the board ; and, in the absence of both the chairman and the deputy chairman, a member chosen by the majority of the members present, shall preside at any meeting of the board.

36. (1) The quorum for any meeting of the board shall be not less than four members of the board in office on the date of such meeting.

Quorum.

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(2) Any question which arises at any meeting of the board shall be decided by a majority of votes of the members present, the members present being not less in number than the quorum prescribed by this Ordinance.

(3) Where the votes of the members present at any meeting are equally divided in regard to any question, the chairman, deputy chairman or other member presiding at the meeting shall, in addition to his own vote as a member, have a casting vote.

37. Subject to the provisions of this Ordinance, the board shall regulate its own procedure.

38. (I) The board shall cause minutes to be made in books provided for the purpose, of the proceedings of every meeting of the board.

(2) The minutes of the proceedings of each meeting shall be submitted at the next succeeding meeting, and if they are passed as correct they shall be confirmed by the signature of the person presiding at that meeting, and shall thereafter be prima facie evidence of the proceedings of which they are a record.

39. A nominated member of the board shall be deemed to vacate his seat if he—

- (a) accepts or holds any office or place of profit under the board ; or
- (b) ceases to possess the qualification of being a whole-time salaried officer in the service of the Government or of the Council or of being a member of the Council, as the case may be; or
- (c) is absent from more than three consecutive meetings of the board without the leave of the board ; or
- (d) by letter addressed to the Minister resigns his office ; or
- (e) is removed from office by the Minister.

40. If at any time a nominated member dies or vacates his office, the Minister may nominate another person in place of the member so dying or vacating his office.

Casual vacancies among nominated members.

41. If it appears to the Minister that a nominated member is unlikely to be able to discharge the duties of his office for a period of three months or more by reason of absence from Sri Lanka, illness, incapacity or any other cause whatsoever, he may appoint another person to act in the place of such member for such period as he may think fit.

Acting appointment in case of nominated member unable to discharge his duties owing to illness, &c.

42. Every member of the board, other than a member who is an officer in the service of the Government, shall be remunerated by the board for work done by him in his capacity as a member, according to such scale as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine.

Remuneration of members.

STAFF OF THE BOARD

43. (1) The staff of the board shall consist of the following:—

Staff of the board.

- (a) an executive staff consisting of the following officers, namely, a secretary, a town planner, an engineer and a valuer; and
- (b) a subordinate staff consisting of such number of officers and servants as the board may deem necessary.

(2) All appointments to the staff of the board shall be made by the board, subject, however, to the previous approval of the Minister in every case of an appointment to the executive staff of the board.

(3) The board may dismiss or remove from office any officer or servant of the board :

Provided, however, that no officer who is on the executive staff of the board shall be dismissed or removed from office except on a resolution of the board passed by a majority of the members for the time being and approved by the Minister.

Board to regulate its own procedure,

Minutes of meetings.

Vacation of office of nominated member.

(4) The board may assign to each officer or servant or each class of officers and servants of the board such salaries, allowances or remuneration as to the board may seem fit.

(5) The provisions of subsections (3) and (4) shall not apply in any case where an officer in the service of the Government is appointed to the executive staff of the board, and in such case, the salary, allowances and conditions of service of such officer shall be determined by the Minister after consultation with the board.

Delegation by board of powers, &c., to officers.

44. The board may in writing authorize the secretary or any other officer of the board to exercise, discharge or perform any power, function or duty vested in, assigned to or imposed on the board by or under this Ordinance.

Rules relating to provident fund and grant of gratuities, [§ 4, 56 of 1961.]

44A. (I) The board may make rules for or in respect of the following matters :—

- (a) the establishment, regulation, administration and management of a provident fund for the grant of benefits to officers and servants (other than daily-paid servants) of the board, the circumstances in which, and the conditions and restrictions subject to which, such officers and servants will be eligible for such grants, fixing the contributions to be made thereto by the board and such officers and servants and the payments to be made therefrom to such officers and servants or their nominees, authorizing the contributions of such officers and servants to be deducted from their salaries, prescribing the procedure for making such deductions, authorizing the payment of all such contributions into the fund and authorizing the investment of moneys paid into the fund and all matters incidental to or connected with the fund, for which no express provision is made; and
- (b) the establishment, regulation, administration and management of a scheme for the grant of gratuities to daily-paid servants of the board

or their widows and children, the circumstances in which, and the conditions and restrictions subject to which, such servants or widows and children will be eligible for such grants, the payments to be made thereunder to such servants or widows and children, and all matters incidental to or connected with such scheme.

(2) No rule made by the board under subsection (1) shall come into force until it is approved by the Minister with the concurrence of the Minister in charge of the subject of Public Administration.

FUND OF THE BOARD

45. (1) The board shall establish a fund in such bank as may be approved by the Minister. Establishment of fund.

(2) There shall be payable into the fund of the board—

- (a) all grants made to the board by Parliament;
- (b) all sums recovered as betterment contribution;
- (c) all sums realized by sales, leases or other transactions of the board; and
- (d) all sums declared to be so payable by this Ordinance or any regulation or rule made thereunder.

(3) There shall be paid out of the fund of the board—

- (a) all sums payable as remuneration to members;
- (b) all sums payable by the board as salaries, allowances or remuneration to its officers and servants;
- (c) all expenses incurred by the board in the exercise, discharge and performance of the powers, functions and duties vested in, assigned to or imposed on the board by this Ordinance or any regulation made thereunder ; and

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[§ 5, 56 of 1961.]
(d) ail sums which the board is authorized or required to pay by this Ordinance or any regulation or rule made thereunder.

(2) The report of the auditor shall be transmitted by him to the board.

51. (1) For the purpose of performing his duties under this Ordinance, the auditor may, by notice in writing, require the production before him of any books, deeds, contracts, accounts, vouchers, and any other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before him at any such audit and examination or adjournment thereof, and to make and sign a declaration in respect of the same.

Powers of auditor.

(2) If any person neglects or refuses to produce any book, deed, contract, account, voucher, document or papers, or to make or sign any declaration when required to do so under subsection (1), he shall be guilty of an offence.

52. The board shall, on receipt of the auditor's report in each year, transmit such report together with the profit and loss account and the balance sheet to which such report relates, and the report of the members under section 48, to the Minister.

Annual accounts with reports of members and auditor to be transmitted to Minister.

53. The profit and loss account and the balance sheet shall be published in the Gazette together with the whole or with portions of the reports transmitted under section 52, as the Minister may determine.

Publication of accounts.

PART VI

SUPPLEMENTARY PROVISIONS, REGULATIONS. &c.

54. The board may, for the purposes of the preparation or execution of any development scheme, by notice require any person to furnish such returns or information relating to the title of that person to any land or structure to which the scheme applies or is to apply, or to the rent, if any, paid to or by that person for any such land or structure, or to such other matters affecting any such land or structure as may be within the knowledge of the person to whom the notice is sent.

Returns. information, Ac.

ACCOUNTS AND AUDIT

Accounts of the board.
46. (1) The board shall cause its accounts to be kept in such form and in such manner as may be prescribed.

(2) The books of account of the board shall be kept at the office of the board.

Profit and loss account and balance sheet for each year.
47. (1) The board shall cause its books to be balanced on the 31st day of December in each year and shall, as soon as may be thereafter, cause to be prepared a profit and loss account and a balance sheet containing a summary of the assets and liabilities of the board made up to the date aforesaid.

(2) The profit and loss account and the balance sheet shall be signed by a majority of the members for the time being in office and by the officer responsible for the preparation of such account and balance sheet.

Report of the members.
48. Every profit and loss account and balance sheet shall be accompanied by a report, signed by a majority of the members, as to the state and condition of the affairs of the board.

Audit of accounts.
49. The accounts of the board shall be audited each year by the Auditor-General or an officer authorized by him in that behalf. The person performing the duty under this section is hereinafter referred to as "the auditor".

Auditor's report.
50. (1) The auditor shall examine the accounts of the board, ascertain the correctness of the balance sheet and furnish a report stating—

(a) whether or not he has obtained all information and explanations required by him; and

(b) whether, in his opinion, the accounts referred to in the report are properly drawn up so as to exhibit a true and correct view of the board's affairs.

Service of notices, &c.

55. (1) Any notice, order, claim, instrument or other document required by or under this Ordinance to be served on any person may be served—

- (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, by leaving it at the registered office of the company; 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, to the registered office of the company.

(2) Any document which is served in accordance with any of the provisions of subsection (1) shall be deemed to have been duly served on the person to whom it is addressed.

(3) Any notice, claim, instrument or other document required by or under this Ordinance to be served on or sent or transmitted to the board shall be deemed to be duly served, sent or transmitted if it is delivered at, or sent by post to, the office of the board or to the chairman of the board.

Authentication of documents served or issued by board.

56. Any notice or other document required or authorized by or under this Ordinance to be served or issued by the board shall be deemed to be sufficiently authenticated if it is signed by the chairman of the board or by some other officer of the board authorized in that behalf by the chairman.

Regulations.

57. (1) The Minister may make regulations for the purpose of carrying out the provisions and giving effect to the principles 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 in respect of which regulations are

authorized or required by this Ordinance to be made ;

- (b) the particulars and estimates which should be prepared by the board in connexion with draft development schemes;
- (c) appeals under this Ordinance, including the time within which such appeals shall be preferred and the fees payable upon such appeals;
- (d) the time and mode of recovery, whether summary or otherwise, of any instalment due in respect of any property under section 30 or of any expenses referred to in section 20 (3) or section 63 (2);
- (e) 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. Notification of such approval shall be published in the Gazette.

(4) Upon the publication in the Gazette of a notification to the effect that a regulation made by the Minister has been approved by Parliament, that regulation shall be as valid and effectual as if it were herein enacted.

58. (1) The Minister may, by Order published in the Gazette, dissolve the board established by this Ordinance with effect from such date as may be specified in the Order.

Dissolution of board.

(2) With effect from the date on which the Order dissolving the board is published in the Gazette under subsection (1)—

- (a) the Council or, where the Council has been dissolved under section 277 of the Municipal Councils Ordinance and a Special Commissioner or Special Commissioners is or are appointed under that section, such Special Commissioner or Special Commissioners shall be the successor or successors of the board for the purposes of this Ordinance ;

[§ 6, 56 of 1961.]

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- [§ 6.56 of 1961.] (b) all the property of the board, whether movable or immovable, other than all moneys in the fund of the board, shall vest in the Council or Special Commissioner or Special Commissioners;
 - [§ 6. 56 of 1961.] (c) all the property, movable or immovable, which at any time after that date would have vested or revested in the board under this Ordinance if the board had not been dissolved, shall vest or revest, as the case may be, in the Council or Special Commissioner or Special Commissioners,
 - [§ 6, 56 of 1961.] (d) all moneys declared by or under this Ordinance to be payable into or out of the fund of the board shall, as the case may be, be payable into or out of the Municipal Fund ;
 - [§ 6. 56 of 1961.] (e) all the rights, debts, liabilities and obligations of the board shall be transferred to the Council or Special Commissioner or Special Commissioners, and
 - [§ 6.56 of 1961.] (f) all the powers, functions and duties vested in, assigned to or imposed on the board by or under this Ordinance shall be vested in, assigned to or imposed on the Council or Special Commissioner or Special Commissioners.
- (3) The board shall, before the date specified in the Order published in the Gazette under subsection (I), transfer all moneys in the fund of the board to the Consolidated Fund.
- Offences. **59.** (1) Every person who, on or after the date on which any development scheme comes into operation for any special area—
- (a) executes any work or does any act, or causes or permits any work or act to be executed or done in or upon or in relation to any land or structure in that area; or
 - (b) uses any land or structure in that area, or causes or permits such land or structure to be used,
- in contravention of any provision of that scheme shall be guilty of an offence.
- (2) Every person who—
- (a) knowingly makes any false or incorrect statement in any application, return or other document made or furnished under or for the purposes of this Ordinance or of any development scheme; or
 - (b) fails or refuses to furnish any information or return required by or under this Ordinance to be furnished by him; or
 - (c) fails or refuses to produce to the board for the purpose of inspection any document required by the board in connexion with the preparation or execution of any development scheme; or
 - (d) 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 Ordinance,
- shall be guilty of an offence.
- (3) Where a person who is not authorized by the board to do so executes or causes to be executed any work or does or causes to be done any act in or upon any land in any special area or in or upon any structure on any such land or occupies or uses or causes to be occupied or used any such land or structure at any time during the period commencing on the date on which such land is vested in the board under this Ordinance and ending on the date on which a development scheme comes into operation for such area, he shall be guilty of an offence. [§ 7. 56 of 1961.]
- 60.** (I) Every officer or servant of the board who, except with written permission given by or on behalf of the board—
- (a) at any time prior to the publication in the Gazette of a notice under section 15 (I) in respect of any draft development scheme prepared by
- Offences by officers, &c., of board.

the board, communicates any information to any person relating to the contents of the scheme ; or

- (b) at any time before any development scheme comes into operation, enters into or interests himself in any transaction for the purchase, lease, or disposal of any land or structure situated in the special area for which the scheme is prepared,

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.

Penalty for offences.

61. Save as otherwise provided in section 60, any person who commits an offence under this Ordinance shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, and in the case of a continuing offence to a further fine not exceeding fifty rupees for every day during which the offence continues.

No proceedings except with written sanction of the board.

62. No prosecution for an offence under this Ordinance shall be instituted in any court except with the written sanction of the board.

Order by court for demolition of any work, Ac.

63. (1) Where any person is convicted of an offence under this Ordinance by reason of his executing any work or causing or permitting the execution of any work in or upon or in relation to any land or structure in contravention of any provision contained in any development scheme for the time being in operation and applying to that land or in contravention of the provisions of subsection (3) of section 59, the Magistrate by whom such person is convicted may, on the application of the board, make an order directing such person to alter, remove or demolish that work within such period as may be specified in the order.

[§ 8. 56 of 1961.]

[§ 8. 56 of 1961.]

(IA) Where any person is convicted under subsection (3) of section 59 of the offence of occupying or using any land or structure in any special area without being authorized by the board to do so, the

Magistrate by whom such person is convicted may, on the application of the board, issue a writ to the Fiscal requiring him before a date specified in the writ to eject such person from such land or structure and deliver possession thereof to the board. Such writ shall be sufficient authority for the Fiscal or any police officer authorized by him in that behalf to enter such land or structure with such assistants as the Fiscal or such police officer deems necessary and to execute such writ.

(2) Where any person who is required to alter, remove or demolish any work by an order made by a Magistrate under subsection (1) fails to do so within the period specified in the order, the board may cause such work to be altered, removed or demolished. All the expenses incurred by the board in the alteration, removal or demolition of that work shall be a first charge on the property of that person, and may be recovered from that person in such manner as may be provided by regulation.

64. Any fine imposed by any court under this Ordinance shall, when recovered, be paid by the court into the fund of the board. Disposal of fines.

65. (1) In this Ordinance, unless the context otherwise requires— Interpretation.

"Council " means the Colombo Municipal Council;

"development scheme" means any development scheme prepared under this Ordinance for any special area;

" emergency powers " means any power conferred by or under any defence regulation made under the Emergency Powers (Defence) Acts, 1939 and 1940, of the Parliament of the United Kingdom, as adapted, modified and extended to Ceylon by the Emergency Powers (Colonial Defence) Order-in-Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order-in-Council, 1940 ; and includes any power conferred by

SPECIAL AREAS (COLOMBO) DEVELOPMENT

any such regulation continued or kept in force after the 24th day of February, 1946, under or by virtue of any Act of the Parliament of the United Kingdom applicable to Ceylon;

"Government Agent" means the Government Agent or the Additional Government Agent or the Assistant Government Agent of the administrative district of Colombo;

"land" includes land covered with water and any right in or over land ;

"owner" in relation to any land, includes the person for the time being receiving the rent of the land, whether on his own account or as agent or trustee for any other person, or who would receive the rent if the land were let to a tenant;

"prescribed" means prescribed by regulation;

"regulation" means a regulation made by the Minister under this Ordinance ;

"road" means any public or private highway, street, carriageway, cartway, lane or pathway, and includes—

- (a) any bridge, footway, pavement, kerb, grass margin,

roundabout, square, drain, embankment or ditch belonging or appertaining to any road ;

- (b) any land adjoining a road which has been reserved for the protection or benefit of the road; and

- (c) any land which has been marked off or reserved for the construction, widening, alteration or diversion of any road;

"special area" means any area declared to be a special area by Order made under section 2;

"structure" includes any building, wall, fence, excavation or other erection or thing constructed or erected in or upon any land;

"town of Colombo" means the area within the administrative limits of the Council.

(2) A land requisitioned for the purpose of fire-gaps under emergency powers shall, although no demolition operations may have been carried out thereon under such powers, be deemed, for the purposes of this Ordinance, to be a land on which demolition operations have been carried out under such powers. [§ 9. 56 of 1961.]

[Section 5.]

FIRST SCHEDULE

Provisions of Land Acquisition Act	Exceptions, substitutions, and modifications
Sections 2, 3 and 4	These sections shall not apply.
Section 5	(1) In lieu of subsection (1) of this section, the following subsection shall have effect:— "(1) Where any land is to be compulsorily acquired for the purposes of the Special Areas (Colombo) Development Ordinance, the Minister shall make a written declaration that such land is needed for a public purpose and will be acquired under this Act, and shall direct the acquiring officer of the district in which such land is situated to cause such declaration in the Sinhala, Tamil and English languages to be published in the Gazette and exhibited in some conspicuous places on or near such land. "

Provisions of Land Acquisition Act	Exceptions, substitutions, and modifications
Section 38	<p>(2) In lieu of subsection (2) of this section, the following subsection shall have effect:—</p> <p>" (2) A declaration made under subsection (1) in respect of any land shall be conclusive evidence that such land is needed for a public purpose. "</p> <p>In lieu of the proviso to that section, the following proviso shall have effect:—</p> <p>" Provided that where it becomes necessary to take immediate possession of any land on the ground of any urgency, the Minister may make an Order in respect of that land under the preceding provisions of this section at any time after a notice under section 7 is exhibited for the first time on or near that land. "</p>
Section 45	<p>In lieu of subsection (1) of this section, the following subsection shall have effect: -</p> <p>' "(1) For the purposes of this Act the market value of a land in respect of which a notice under section 7 has been published shall—</p> <p>(a) where the land is a land of the description referred to in section (3) (1) (a) of the Special Areas (Colombo) Development Ordinance, and where an order in respect of the land was published in the Gazette under section 38 of this Act while such land was in the possession of any authority under emergency powers, be the amount which the land might be expected to have realized if sold as a separate entity in the open market by a willing seller at the time possession thereof was taken under the aforesaid powers, or</p> <p>(b) where the land is a land of the description referred to in section 3 (1) (a) of the aforesaid Ordinance and where an Order in respect of the land was published in the Gazette under section 38 of this Act while possession of the land was retained under section 7 of the aforesaid Ordinance, be the amount which the land might be expected to have realized if, at the time possession thereof was taken under emergency powers, the land was—</p> <p>(i) in the condition in which it is at the time of awarding compensation. and</p> <p>(ii) sold by a willing seller in the open market as a separate entity, or</p> <p>(c) where the land is a land of the description referred to in section 3 (1) (h) of the aforesaid Ordinance, be the amount which the land might be expected to have realized if sold by a willing seller in the open market as a separate entity on the date of publication of the notice under section 7 of this Act in the Gazette :</p> <p>Provided that in determining that amount, all such returns and assessments of income from, or of the capital or annual value of, that land as have been made or acquiesced in by the owner of that land for the purposes of any rate or tax imposed in respect of that land, shall be taken into consideration.</p> <p>In this subsection the expression " emergency powers " has the same meaning as in the Special Areas (Colombo) Development Ordinance. '.</p>
Section 48	<p>This section shall have effect as though, for the full stop at the end of paragraph (A), a semicolon were substituted, and, immediately after that paragraph, the following new paragraphs were added:—</p> <p>"(i) any improvement made at the cost of the Government in, upon or in the proximity of the land;</p> <p>(j) any improvements made in or upon the land, being improvements in respect of which a person is not entitled, under section 9 of the Special Areas (Colombo) Development Ordinance, to claim or receive compensation;</p> <p>(k) any temporary increase in the value of the land due to the expectation of a rise of prices consequent upon the declaration of a special area under section 2 of the Special Areas (Colombo) Development Ordinance, or the preparation or coming into operation of a development scheme under that Ordinance. "</p>
Section 49 ..	<p>This section shall have effect as though, for all the words from " and the Minister " to " by any authority.", the words " for any authority, " were substituted.</p>

1. The character, height and frontage line of structures and the spacing of structures.
2. The regulation and control of the design and colour of structures, and of the materials of which structures may be built.
3. The access, egress and approach to or from structures, and the regulation of the arrangement of structures on any plot of land.
4. The regulation and control of the erection of temporary structures.
5. The splaying or setting back or rounding off of angles of the boundaries of land or structures in the interests of the public safety or the amenities of the neighbourhood.
6. The regulation of the objects which may be affixed to structures, and the authorization of projections in front of building lines or of set-backs.
7. The area and extent of any curtilage, including the size, shape, width and depth thereof.
8. The percentage of the area of any curtilage which may be covered by structures and the extent of open spaces to be provided within any curtilage.
9. The limitation of the number of structures of any specified description which may be constructed or erected in any specified area or on any specified extent of land.
10. The regulation and control of the use and occupation of buildings or of the letting out of dwelling houses in separate pans.
11. The demolition or alteration of structures which are inconsistent with any provision of any scheme or which are insanitary, unhealthy, dangerous, or otherwise unfit for human habitation.
12. The prescribing of standards of fitness for dwelling houses.

SERVICEMEN (COLLECTION AND DISPOSAL OF SPECIFIED PROPERTY)

CHAPTER 628

SERVICEMEN (COLLECTION AND DISPOSAL OF SPECIFIED PROPERTY)

Act No. 41 of 1957.

AN ACT TO PROVIDE FOR THE COLLECTION AND DISPOSAL OF CERTAIN PROPERTY BELONGING TO DECEASED SERVICEMEN AND FOR THE APPLICATION, SUBJECT TO MODIFICATIONS, OF THE PROVISIONS OF THIS ACT RELATING TO SUCH SERVICEMEN AND TO SERVICEMEN WHO HAVE DESERTED, ABSENTED THEMSELVES OR BECOME OF UNSOUND MIND.

[6th September. 1957.]

Short title.

1. This Act may be cited as the Servicemen (Collection and Disposal of Specified Property) Act.

and money in preference to all other debts and liabilities, and, as among themselves, in the following order:—

Committee to take charge of movable property of a deceased serviceman and to pay preferential Charges.

2. On the death of a serviceman a committee (hereinafter referred to as "the committee") consisting of the prescribed number of persons appointed by the prescribed authority shall, as soon as may be and in accordance with regulations made under this Act—

(a) expenses of the last illness and funeral of such serviceman;

(b) sums due by such serviceman in respect of—

(i) quarters,

(ii) mess, band and other debts due to military, naval or air-force institutions, and

(iii) military, naval or air-force clothing, appointments and equipments.

(a) take charge and make an inventory of movable property belonging to such serviceman which is in the care, control or custody of the naval, military or air-force authorities at the time of his death or which came into such care, control or custody after his death;

(b) collect any money due to such serviceman as salary, batta or other allowance; and

(c) ascertain the amount of, and, subject to the provisions of sections 6 and 7, provide for the payment of, the preferential charges.

4. The Sri Lanka estate of a deceased serviceman, for the purpose of the calculation of estate duty payable under the Estate Duty Ordinance or the Estate Duty Act shall be his Ceylon or Sri Lanka estate within the meaning of that Ordinance or Act less any amount paid as preferential charges under this Act.

Sri Lanka estate of a deceased serviceman.

Preferential charges.

3. The expenses and debts specified hereunder shall be the preferential charges on the property and money of the deceased serviceman which are referred to in section 2, and shall, except so far as other provision may be made for the payment of those charges, be payable out of such property

5. Where in the case of any deceased serviceman the committee is unable to determine the question as to what are the preferential charges or the amount payable in respect of such charges, the Secretary to the Ministry charged with the subject of Defence or such officer as may be

Decision of questions as to preferential charges and the amount thereof.

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authorized by him in that behalf in writing shall decide that question and such decision shall be final.

Payment of preferential charges by other persons.

6. (1) Any person may, within one month after the death of a serviceman or within such further time not exceeding the prescribed time as the committee may allow, pay the preferential charges on such property and money of that serviceman as are referred to in section 2, or secure the payment of those charges to the satisfaction of the committee.

(2) If the payment of the preferential charges on such property and money as are referred to in subsection (1) is made or secured as provided in that subsection, the committee shall deliver that property and money to the prescribed person (hereinafter referred to as " the paymaster ").

Powers and duties of the committee where preferential charges are not paid or secured.

7. (1) If within one month after the death of a serviceman or such further time not exceeding the prescribed time as the committee may allow, the preferential charges on such property and money of a deceased serviceman as are referred to in section 2 are not paid or secured to the satisfaction of the committee, the committee shall proceed to pay those charges out of that property and money, and may sell and convert into money such part of that property as does not consist of money for the purpose of paying those charges and any expenses incurred by the committee in effecting the sale and conversion.

(2) For the purpose of the exercise of its powers and the performance of its duties under this Act, the committee shall, to the exclusion of all other authorities and persons, have the same powers and duties as an executor or administrator of the estate of a deceased serviceman would have ; and any receipt given by the committee shall have the same effect as if it had been given by such executor or administrator.

(3) The committee shall deliver to the paymaster such part of the property and money of a deceased serviceman as remains in its hands after payment of the charges and expenses referred to in subsection (1), together with such inventory, accounts, vouchers and information as may be prescribed.

8. Subject to the prescribed provisions and exceptions, the paymaster shall—

Disposal of property and money delivered to paymaster.

(a) where any property and money of a deceased serviceman of not less than twenty thousand rupees in value is received by the paymaster from the committee, deliver that property and money to the executor or administrator of the estate of that serviceman to be included in that estate, and

[§ 4, 24 of 1969.]

(b) where any property and money of a deceased serviceman of less than twenty thousand rupees in value is received by the paymaster from the committee, deliver that property and money to the person in the opinion of the paymaster to be entitled by law thereto.

[§ 4, 24 of 1969.]

9. Medals and decorations shall not be considered to be comprised in the movable property referred to in section 2 and shall be taken charge of, and held and disposed of, by the committee according to regulations made under this Act.

Disposal of medals and decorations.

10. Notwithstanding anything to the contrary contained in Chapter XXXVIII of the Civil Procedure Code, any property of a deceased serviceman which is in the custody of the committee or the paymaster under this Act shall be deemed not to be part of the estate of that serviceman for the purpose of the application for, or grant of, probate of the will, or letters of administration of the estate, of that serviceman.

Property in custody of committee not to be property for application for, or grant of, probate or letters of administration.

11. Section 547 of the Civil Procedure Code shall not apply in relation to any property received under this Act by the committee or the paymaster or delivered under this Act by the paymaster to any person.

Application of section 547 of the Civil Procedure Code.

12. Every payment, application, sale or other disposition of property made by the committee or the paymaster, when acting in execution or supposed execution of this Act, shall be valid as against all persons whomsoever; and every member of the committee and the paymaster shall be discharged from all liability in respect of any money paid, or any property applied, sold or disposed of, under this Act.

Validity of payments, sales, &c., under this Act.

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Saving for
rights of
executor or
administrator.

13. After the committee has delivered to the paymaster any property or money of a deceased serviceman, the executor or administrator of the estate of that serviceman shall, in respect of any property or money referred to in section 2 which has not been taken charge of or collected by the committee, have the same rights and duties as if this Act had not been passed.

Application
of Act to
deserters, &c.

14. Where a serviceman deserts or is absent without leave for twenty-one days, the provisions of this Act shall apply as if such serviceman were dead, subject to the modification that the committee shall dispose of any property and money of that serviceman remaining in its hands after the payment of the preferential charges and expenses referred to in section 7 (1) in the prescribed manner, and that property and money when so disposed of shall be free from all claim on the part of that serviceman or any person claiming through him.

Application of
Act to person
of unsound
mind.

15. Where a serviceman is ascertained in the prescribed manner to be of unsound mind, the provisions of this Act shall apply as if he had died at the time he was ascertained to be of unsound mind, subject to the prescribed exceptions and the modification that the committee shall dispose of any property and money of that serviceman remaining in its hands after the payment of the preferential charges and expenses referred to in section 7 (1) in the prescribed manner with a view to their being applied to the benefit of that serviceman.

16. (1) The Minister may make Regulations. regulations—

(a) in respect of all matters stated in this Act to be prescribed ;

(b) for all matters in respect of which regulations are required or authorized by this Act to be made; and

(c) for the purpose of carrying out the provisions or giving effect to the principles of this Act.

(2) No regulation shall have effect until that regulation has been approved by Parliament and notification of such approval is published in the Gazette.

17. In this Act, " serviceman " means— Interpretation.

(a) any person who, under the Army Act, is subject to military law, or

(b) any person who, under the Navy Act, is subject to naval law, or

(c) any person subject to the Air Force Act.

18. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and in case of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail. Act to prevail in case of conflict with other written law.

CHAPTER 136

SANNASES AND OLD DEEDS

Ordinances AN ORDINANCE TO COMPEL THE REGISTRATION OF " SANNASES ", OLD DEEDS, AND
 Nos. 6 of 1866, OTHER INSTRUMENTS OF TITLE.
 13 of 1867.

[20th October, 1866.]

Short title. 1. This Ordinance may be cited as the *Sannases and Old Deeds Ordinance*.

other instrument, and engraved on the *sannas*, to show that the same was produced before him and the date of such production.

Deeds, &c., bearing date on or before 1st February, 1840, to be registered within a certain time. 2. All persons holding or claiming title under deeds, *sannases*, *olas*, or other instruments on which title to land or other immovable property is founded, which bear date on or before the 1st day of February, 1840, are hereby required to produce the same before the Registrar of Lands for the district within which such persons shall respectively reside, on or before the 31st day of December, 1867. If such Registrar shall reside at an inconvenient distance, such deeds, *sannases*, *olas*, or other instruments may be produced before the nearest Commissioner of Requests or Magistrate, whose duty it shall be to forward the same safely and expeditiously to the Registrar of Lands for the purposes of registration under this Ordinance:

4. The Registrar shall also cause a list in duplicate to be made monthly of all deeds, *sannases*, *olas*, or other instruments produced before him under the provisions of this Ordinance, giving all necessary particulars thereof, and shall transmit one to the Registrar-General of Lands, and shall file the other in his own office.

Monthly lists of such deeds, &c., to be made,

5. For facility of reference, a general list, either in alphabetical or other convenient order, shall be made and preserved of all such deeds, *sannases*, *olas*, or other instruments in the offices of the Registrar-General and District Registrar.

General lists thereof to be kept.

Extension of time for producing deeds, &c. Provided that it shall be lawful for the Governor, by Proclamation in the Gazette, to extend* the time hereinbefore limited for the production of deeds, *sannases*, *olas*, or other instruments, either as respects Ceylon generally or in any particular province or district thereof.

6. If any person shall claim interest under any such deeds, *sannases*, *olas*, or other instruments, but is unable to produce them owing to their being in the possession of another who refuses to part with them, he shall inform the same to the Registrar, who shall thereupon cause such other person to be noticed to produce them. Any person noticed as aforesaid who fails or refuses to produce any such deed, *sannas*, *ola*, or other instrument, shall be liable to a fine not exceeding ten rupees for every day he so fails or refuses to produce the same.

Process where persons claiming interest under deeds, &c., are unable to produce the same.

Registrar to cause exact copy to be made. 3. The Registrar of Lands shall thereupon cause an exact copy of the said deed, *sannas*, *ola*, or other instrument to be made, which said copy shall show the alterations, erasures, interlineations, or other suspicious marks, if any, which may appear in the original, and shall cause such copy to be carefully filed and preserved in his office, and the original to be returned to the person from whom he received the same, with the Registrar's endorsement written on some conspicuous part of the deed, *ola*, or

7. From and after the 1st day of January, 1868, or in case of the time having been extended as hereinbefore provided, from and after the expiry of such extended time, either in Sri Lanka generally or the particular province or district in respect of which such extension shall have been made, no deed, *sannas*, *ola*, or other instrument as

No deed, *sannas*, *ola*, or other instrument executed before 1st February, 1840, shall be received in evidence unless registered.

* Extended to 1st February, 1875.

aforesaid shall be received in evidence in any civil proceeding in any Court of Justice for the purposes of creating, transferring, or extinguishing any right or obligation, unless such deed, *sannas*, *ola*, or other instrument shall have been previously registered in the manner hereinbefore directed:

Provided that if it shall be established to the satisfaction of the court before which any such deed, *sannas*, *ola*, or other instrument is produced that the same was not registered owing to the absence from Ceylon of the holder thereof, or of his being under some legal disability, or from other causes utterly beyond the control of the person producing it in evidence, such court may allow the production of such deed, *sannas*, *ola*, or instrument, and the same shall be received in evidence notwithstanding that the same shall not have been previously registered as herein directed;

Provided also that nothing in this Ordinance contained shall be held to prevent parties questioning any deed, *sannas*, *ola*, or other instrument which may be produced in evidence notwithstanding that the same shall have been registered, and on grounds other than the registration thereof, and on which said other grounds the court before which the question shall arise shall determine as if this Ordinance had not been passed.

8. It shall be lawful for the Minister, from time to time, by Order to be published in the Gazette, to dispense in any district or districts of Sri Lanka with the provisions contained in section 3 of this Ordinance, so far as they relate to the taking of exact copies of deeds, *olas*, or other instruments, and to authorize the Registrar of Lands of such district or districts to register the substance of such deeds, *olas*, or other instruments, in such form and with such particulars as shall be prescribed in the said Order ; and the Registrar shall in such cases cause the registry so made by him to be carefully filed and preserved in his office, and the original to be returned, with his endorsement as provided in the said section, to the person from whom he received the same.

Minister may dispense with the taking of copies of deeds in any district or districts.

9. In those places in which the taking of copies shall be dispensed with by Order under section 8, the provision in section 7 of this Ordinance shall apply to the deeds, *olas*, or other instruments registered as authorized by the said Order, as if the same shall have been registered under section 3.

Provision of section 7 of the Ordinance will apply to such registries.

10. Nothing in this Ordinance contained shall affect any deed, *saunas*, *ola*, or other instrument which is annexed to other deeds or instruments of title bearing date subsequent to the 1st day of February, 1840, and which said other deeds or instruments of title have been bona fide transferred and registered as has heretofore been required bylaw.

Deeds, &c., annexed to others, &c., not affected.

CHAPTER 167

SPECIAL ALLOWANCES OF WORKERS

Law No. 17 of 1978. A LAW TO PROVIDE FOR THE PAYMENT OF SPECIAL ALLOWANCES BY EMPLOYERS TO CERTAIN CATEGORIES OF WORKERS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[17 th February. 1977.]

Short title. **1.** This Law may be cited as the Special Allowances of Workers Law.

Competent authority. **2.** (1) The Commissioner shall be the competent authority for the purposes of this Law.

(2) The competent authority may delegate to any officer of the Department of Labour any power, function or duty conferred or imposed on such authority by this Law.

PART I

PAYMENT OF CERTAIN ALLOWANCES TO PRIVATE SECTOR WORKERS

Payment of allowance. **3.** (1) With effect from the 17th day of February, 1977, every employer, in any trade, of a worker whose total earnings for the month do not exceed eight hundred rupees shall pay to such worker in respect of each month, an allowance calculated on the following basis :—

(a) in the case of a worker remunerated at a monthly rate, the allowance payable shall be an amount not less than twenty *per centum* of the wages or salary due to such worker for the month ;

(b) in the case of a daily-paid worker, the allowance payable shall be an amount not less than twenty *per centum* of the daily wage due to such worker for each day he has worked for the month;

(c) in the case of a worker who is employed on a piece-rate basis, the allowance payable shall be a sum not less than twenty *per centum* of the wages due to him at such piece rate during the month:

Provided that the allowance payable under paragraph (a) or paragraph (b) or paragraph (c) shall not in any case exceed fifty rupees.

(2) Every employer of a worker whose total earnings for the month exceed eight hundred rupees but are less than eight hundred and fifty rupees, shall, in respect of each month, pay to such worker as allowance an amount equivalent to the difference between eight hundred and fifty rupees and the amount drawn by such worker as salary or wages for that month.

(3) Where any worker referred to in subsection (1) or subsection (2) is paid—

(i) a non-recurring Cost of Living Gratuity in accordance with, or on the basis of, the provisions of any Collective Agreement or in terms of an Order made by the Minister under section 10 (2) of the Industrial Disputes Act, or

(ii) a Cost of Living Allowance determined in accordance with the Colombo Consumers' Price Index,

the employer may deduct from the amount payable to such worker as such gratuity or such allowance, as the case may be,—

(a) where the total earnings of such worker for the month do not exceed four hundred rupees, an amount equivalent to ten *per centum* of the salary or wages of such worker or a sum of thirty rupees, whichever is less ; and

(b) where the total earnings exceed four hundred rupees, a sum of fifty rupees.

4. (1) With effect from the 17th day of February, 1977, every employer, in any trade, of a worker whose total earnings for the month do not exceed eight hundred rupees, shall pay to such worker in respect of each month, in addition to the allowance referred to in section 3, an allowance which is not less than twenty-five rupees : Payment of additional allowance.

Provided that—

(a) where such employer is an employer bound by any Collective Agreement published in Gazette No. 14,975 of September 10, 1971, or by an Order under section 10 (2) of the Industrial Disputes Act, in respect of such Collective Agreement, or is an employer who voluntarily or otherwise pays wages and non-recurring Cost of Living Gratuity which are not less favourable than the amounts payable under any such Collective Agreement, the allowance payable shall be ten *per centum* of the monthly wage payable for the month of January, 1975, to the category or class of workers to which such worker belongs, or twenty-five rupees, whichever is less ; and

(b) where such employer is an employer in the tea growing and manufacturing trade or the rubber growing and manufacturing trade or the cocoa, cardamom and pepper growing and manufacturing trade, or the coconut growing trade, or the cinnamon trade, or the tobacco trade, the allowance payable shall be ten *per centum* of the amount payable to such worker as wages for the number of days he has worked during the month, at the rate of the daily minimum wage payable for the month of January, 1975, to the category or class of workers to which such worker belongs, or twenty-five rupees, whichever is less.

(2) Where a worker is employed on a piece-rate basis or a daily-rate basis, the allowance payable shall be an amount not less than ten *per centum* of the wages payable on a piece-rate basis or a daily-rate basis, as the case may be, for the month of January, 1975, to the category or class of workers to which such worker belongs :

Provided that the allowance payable under this subsection shall not exceed twenty-five rupees per mensem.

(3) Where a worker employed on a monthly rate does not work for the requisite

number of days as prescribed by any written law or contract, for any reason other than the failure of the employer to provide work for such worker, the allowance payable to such worker shall be in proportion to the number of days he has worked for the month.

(4) Every employer of a worker whose total earnings for the month exceed eight hundred rupees but are less than eight hundred and seventy-five rupees shall, in respect of each month, pay to such worker as allowance an amount equivalent to the difference between eight hundred and seventy-five rupees and the amount drawn by such worker as salary or wages for that month.

(5) Notwithstanding the preceding provisions of this section, the allowance determined under subsection (1) shall not be payable to a worker—

(a) to whom Collective Agreement No. 5 of 1967 applies ;

(b) to whom the employer, voluntarily or otherwise, pays wages and a non-recurring Cost of Living Gratuity which are not less favourable than the amount payable under the Collective Agreement referred to in paragraph (a) ;

(c) to whom the employer pays a Cost of Living Allowance determined in accordance ° with the Colombo Consumers' Price Index ;

(d) who is employed in an institution declared to be an approved charity under section 16A of the Inland Revenue Act, No. 4 of 1963, or section 31 (9) (a) of the Inland Revenue Act (No. 28 of 1979), as the case may be ; and

(e) whose employer is bound by an Order under section 10 (2) of the Industrial Disputes Act, in respect of any Collective Agreement published in Gazette No. 14,975 of September 10, 1971, and pays wages and a non-recurring Cost of Living Gratuity in terms of any such agreement, where the total number of workers employed by such employer is less than twenty-five.

Interpretation

5. In this Part of this Law, unless the context otherwise requires—

" trade " includes any industry, business, undertaking, occupation, profession or calling carried on, performed or exercised by an employer or worker, and any branch of, or any function or, process in, any trade, but does not include any industry, business or undertaking which is carried on by any body corporate or unincorporate whose capital is wholly provided by the Government in its capacity as an employer or which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or persons who are destitute, dumb, deaf or blind ; and

" worker " means a person employed by any employer under a contract whether oral, written, express or implied to perform any work in any trade, industry, business, occupation or calling, and includes a worker whose salary or wages are regulated by any written law or otherwise, and a worker employed on a piece-rate basis, but does not include a domestic servant or an employer's personal chauffeur.

allowance payable under any decision made by the Wages Board for the tea growing and manufacturing trade, or the rubber growing and manufacturing trade, or the coconut growing trade, as the case may be, under section 20 (2) (a) (ii) of the Wages Boards Ordinance.

7. (1) Every employer in the textile manufacturing trade employing not less than one hundred workers shall, with effect from the 17th day of February, 1977, pay in respect of each month to each unskilled worker a minimum monthly rate of wages amounting to one hundred and eighty rupees, if such worker has worked for at least twenty-five days during the month.

Minimum monthly rate of wages in the textile manufacturing trade.

(2) The monthly rate of wages referred to in subsection (1) shall be deemed to include the Interim Devaluation Allowance payable under the Interim Devaluation Allowance of Employees Act, but shall not include the allowances referred to in sections 3 and 4 of this Law.

8. (1) Every employer of a worker whose name appears in the check-roll of an estate of not less than one hundred acres in extent, and planted with any one or more of the following crops, that is to say, tea, rubber, coconut, cocoa, cardamom or pepper, shall, with effect from the 17th day of February, 1977, pay as wages to such worker an amount not less than the guaranteed minimum amount in respect of each period of six months after the 17th day of February, 1977, if the worker reports for work on at least one hundred and eight working days during each such period, and works on the days on which work is given to him on so reporting.

Guaranteed minimum wage for estate workers.

(2) Where during any period referred to in subsection (1), a worker referred to in that subsection fails to report for work on at least one hundred and eight working days by reason only of the number of working days in such period being less than one hundred and eight, such worker shall, notwithstanding such failure, be entitled to be paid the guaranteed minimum amount.

(3) In this section—

" daily minimum wage " in relation to a worker, means the aggregate of—

PART II

PAYMENT OF CERTAIN ALLOWANCES TO CERTAIN CATEGORIES OF PRIVATE SECTOR WORKERS

Payment of additional special allowances to plantation workers.

6. (1) Every employer of a worker in—
(a) the tea growing and manufacturing trade, or
(b) the rubber growing and manufacturing trade, or
(c) the coconut growing trade,

shall, with effect from the 17th day of February, 1977, pay to such worker an allowance (hereinafter referred to as the " additional special allowance ") at such rates as are set out in the First Schedule hereto.

(2) The additional special allowance shall be paid in addition to any special

- (a) the daily wage prescribed by the relevant Wages Board for the trade to which the worker belongs ;
- (b) any amount payable to the worker for a day under this Law ;
- (c) any amount payable to the worker for a day under the Interim Devaluation Allowance of Employees Act ; and
- (d) any amount payable to the worker for a day in accordance with the provisions, or on the basis, of any Collective Agreement ; and

less than one hundred acres in extent shall pay to such worker, in respect of each day he works, a wage supplement computed at such rates as are set out in the Second Schedule hereto.

12. The provisions of the Wages Boards Ordinance shall apply to, and in relation to, the payment of the additional special allowance referred to in section 6 and the minimum monthly rate of wages for workers in the textile manufacturing trade referred to in section 7 as though such payments were required to be made by a decision made by the appropriate Wages Board.

Provisions of the Wages Boards Ordinance to apply in the case of certain allowances.

PART III

GENERAL

" guaranteed minimum amount " means in respect of each period of six months, the amount equivalent to the average of the daily minimum wage which the worker is entitled to during each such period, multiplied by one hundred and eight.

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 such provisions and any such other law or such contract, such provisions shall, to the extent of such inconsistency, prevail over any such other law or such contract.

This Law to have force and effect notwithstanding anything in any other written law.

Employer to maintain loose leaf check-roll.

9. (1) Every employer of a worker referred to in section 8 shall maintain a loose leaf check-roll in which shall be recorded the names of the workers who report for work on a working day. Such check-roll shall be kept at the place at which the workers report for work on the estate and shall be open for inspection by any worker of the estate or by a representative of the Estate Committee of the trade union recognized by the employer.

(2) A representative of the Estate Committee of a trade union recognized by the employer shall have the right to be present on the estate at the times and places at which workers report for work, and after work.

14. Every worker including an unskilled worker who has been employed by any employer in any of the trades specified in this Law, on the day immediately prior to the 17th day of February, 1977, shall, for so long as he continues to be a worker of such employer, continue to be so employed by such employer on such terms and conditions relating to salary, allowances or other payments in money by whatsoever name or designation called, as are not less favourable than those which such worker had enjoyed on the day immediately prior to the 17th day of February, 1977, other than any such allowances as were paid to him under Emergency Regulations made under section 5 of the Public Security Ordinance, and the allowances payable under the preceding provisions of this Law shall be in addition to such salary, allowances or other payments.

Special provision regarding continuation of employment.

Where wage is less than the guaranteed minimum wage.

10. Where the amount paid as wages by an employer to a worker referred to in section 8 during any period referred to in that section, is less than the guaranteed minimum amount, such employer shall pay such worker the difference between the guaranteed minimum amount and the amount paid as wages during such period, not later than thirty days after the end of such period.

15. (1) The employer of a worker in any trade shall maintain and keep in the premises in which that trade is carried on a register, in respect of the workers employed in that trade, showing—

Maintenance of records by employers.

Payment of wage supplement to tea estate workers.

11. With effect from the 17th day of February, 1977, every employer of any worker in the tea growing and manufacturing trade, in any tea estate not

SPECIAL ALLOWANCES OF WORKERS [Cap.167]

- (a) the name of each worker employed ;
- (b) the class of work performed by each such worker ; and
- (c) the amount paid to each such worker in accordance with the provisions of this Law.

(2) Every person who, as an employer, maintains or has maintained under subsection (1) any record shall preserve such record for a period of four years commencing on the date on which the record was required to be maintained under this Law and shall, when required to do so by the Commissioner, produce such record for inspection and furnish a true copy of such record or permit such copy to be made.

16. The competent authority shall have the power—

- (a) to enter and inspect at all reasonable hours of the day or night any place in which workers referred to in this Law are employed, for the purpose of examining any register or record of wages, or of ascertaining whether the provisions of this Law are being complied with ; or
- (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 or at his office ; or
- (c) to take copies of the whole or any part of any such register or record ; or
- (d) to interrogate any person whom he finds in such place and whom he has reasonable cause to believe is an employer or a worker engaged or employed in any trade carried on in such place ; or
- (e) to direct in writing any employer to whom this Law applies to furnish to him on or before a specified date—
 - (i) a return relating to all workers employed by any such employer or any specified class or description of such workers and containing such particulars as he may require for the purposes of this Law ;
 - (ii) such information or explanation as he may require in respect of any particulars stated in any return furnished by any such employer ; or
 - (iii) a true copy of the whole or any part of any register or record maintained by any such employer.

17. Every person who, on or after the 17th day of February, 1977,— offences and penalties.

- (a) fails to comply with the provisions of section 15 ; or
- (b) fails to furnish the means required by the competent authority as necessary for any entry or inspection or the exercise of his powers under section 16 ; or
- (c) hinders or molests such authority in the exercise of the powers conferred by section 16 ; or
- (d) refuses to produce any register or record of wages, or give any information which such authority requires him to produce or give under the powers conferred by section 16 ; or
- (e) makes or causes to be made any register or record of wages which is false in any material particular, or produces or causes or knowingly allows to be produced any register or record to such authority acting under the powers conferred by section 16, knowing the same to be false ; or
- (f) furnishes any information to such authority acting under the powers conferred by section 16, knowing the same to be false ; or
- (g) makes default in complying with any directions given by such authority under section 16, or who, when called upon to furnish a return under the said section 16, knowingly, makes or furnishes, or causes to be made or furnished, a false return or a return containing any false statement,

Powers of competent authority.

shall be guilty of an offence and shall be liable on conviction before a Magistrate 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.

Payments due under this Law to constitute part of a worker's wages.

18. Any sum due to a worker under section 3 or section 4 or section 6 or section 7 or section 8 or section 11 shall, for all purposes of any written law or otherwise, be deemed to constitute part of his wages and accordingly every employer of such worker shall pay such sum within the period of his liability to pay the wages of such employee.

Failure to pay sums due to workers.

19. (1) Any employer who fails to pay a sum required to be paid to a worker of such employer under this Law shall be guilty of an offence and shall be liable on conviction before a Magistrate 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) Upon conviction by the Magistrate's Court of an employer for an offence by reason of the failure of such employer to pay any sum required to be paid to a worker of such employer under this Law, the court may, in addition to any other penalty which it may have imposed for such offence, order such employer to pay such sum to such worker, within a period specified in the order, and if such sum is not so paid, such sum may be recovered and paid to such worker on the order of the court.

Regulations.

20. (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.

21. In this Law, unless the context otherwise requires—

Interpretation.

" child worker " means a male worker under sixteen years of age or a female worker under fifteen years of age ;

" coconut growing trade " has the same meaning as in the Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade and published in Gazette No. 9,961 of March 30, 1949;

" Collective Agreement " has the same meaning as in the Industrial Disputes Act ;

" Commissioner " means the person for the time being holding the office of Commissioner of Labour and includes any person for the time being holding office as a Deputy Commissioner of Labour or as a Senior Assistant Commissioner of Labour or as an Assistant Commissioner of Labour or as a labour officer ;

" earnings " shall have the same meaning as in the Employees' Provident Fund Act ;

" employer " means any person who on his own behalf employs, or on whose behalf any other person employs, any worker in any trade and includes any person who on behalf of any other person employs any worker in any trade ;

" rubber growing and manufacturing trade " has the same meaning as in the Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade, and published in Gazette No. 10,035 of October 22, 1949;

" tea growing and manufacturing trade " has the same meaning as in the

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Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade, and published in Gazette No. 9,224 of January 7,1944 ;

" textile manufacturing trade " has the same meaning as in the Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade and published in Gazette No. 14,763 of August 25, 1967, as amended by the Order published in Gazette No. 53 of March 30, 1973 ;

" trade " in Parts II and III has the same

meaning as in the Wages Boards Ordinance ;

" unskilled worker" has the same meaning as in the decision made by the Wages Board for the textile manufacturing trade, and published in Gazette Extraordinary No. 14,955/19 of April 29, 1971;

" wages " has the same meaning as in the Wages Boards Ordinance ;

" worker " in Parts II and III has the same meaning as in the Wages Boards Ordinance ; and

" working days " in relation to an estate, means the days on which work is done on the estate.

FIRST SCHEDULE

[Section 6.]

The additional special allowance payable under section 6 to a worker specified in Column I hereunder shall be at the rate set out in the corresponding entry in Column II hereunder.

COLUMN I CLASS OF WORKER	COLUMN II ADDITIONAL SPECIAL ALLOWANCE FOR A NORMAL WORKING DAY
Male worker over 16 years of age	18 cents
Female worker over 15 years of age	12 cents
Child worker	12 cents

SECOND SCHEDULE

[Section 11.]

COLUMN I WHERE THE MONTHLY AVERAGE NET SALE PRICE OF ALL MID-GROWN TEAS AT THE COLOMBO TEA AUCTIONS FOR THE PREVIOUS MONTH IS—	COLUMN II THE WAGE SUPPLEMENT PAYABLE PER WORKER PER DAY SHALL BE—
(a) Not less than Rs. 2.50 and not more than Rs. 2.74	10 cents
(b) Not less than Rs. 2.75 and not more than Rs. 2.99	20 cents
(c) Not less than Rs. 3.00	30 cents

CHAPTER 168

SUPPLEMENTARY ALLOWANCE OF WORKERS

Act
No. 65 of 1979.

AN ACT TO PROVIDE FOR THE PAYMENT OF A SUPPLEMENTARY ALLOWANCE BY EMPLOYERS TO CERTAIN CATEGORIES OF WORKERS IN THE PRIVATE SECTOR AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st September, 1979.]

Short title.

1. This Act may be cited as the Supplementary Allowance of Workers Act.

total allowance payable for that month shall not exceed fifty-five rupees ; and

Competent authority.

2. (1) The Commissioner shall be the competent authority for the purposes of this Act.

(c) in the case of a worker who is employed on a piece-rate basis, the allowance payable shall be a sum not less than ten *per centum* of the wages due to him at such piece-rate during the month, so however that the allowance payable for that month shall not exceed fifty-five rupees.

(2) The competent authority may delegate to any officer of the Department of Labour any power, function or duty conferred or imposed on, or assigned to, such authority by this Act.

Payment of supplementary allowance.

3. (1) With effect from the 1st day of September, 1979, every employer, in any trade, of a worker whose total earnings for the month do not exceed one thousand five hundred rupees shall in respect of each month, pay to every such worker employed by him an allowance (in this Act referred to as the "supplementary allowance") calculated on the following basis :—

(2) Every employer of a worker whose total earnings for the month exceed one thousand five hundred rupees but are less than one thousand five hundred and fifty-five rupees, shall, in respect of each month, pay to such worker as allowance, an amount equivalent to the difference between one thousand five hundred and fifty-five rupees, and the amount drawn by such worker as salary or wages for that month.

(a) in the case of a worker remunerated at a monthly rate, the allowance payable shall be a sum of fifty-five rupees :

(3) Every worker who is entitled to the Supplementary Allowance and is also entitled to a Cost of Living Allowance determined in accordance with the Colombo Consumers' Price Index or to a special allowance payable under the Wages Boards Ordinance shall, as long as this Act is in force, not be entitled to any Cost of Living Allowance in excess of the amount determined in accordance with the Cost of Living Index figure of 245.9 or to such special allowance in excess of the amount paid for the month of September, 1979, unless such Cost of Living Allowance or such special allowance in respect of any month exceeds the aggregate of the Cost of Living Allowance determined in accordance with the aforesaid Cost of Living Index figure or the special allowance paid for the said month of September and the supplementary allowance, in which case such worker shall in respect of that month be entitled, in addition to the supplementary allowance, to be paid the amount of such excess.

Provided, however, that in the case of a worker who does not work for the requisite number of days as prescribed by any written law or contract for any reason other than the failure of the employer to provide work for such worker, the allowance payable to such worker shall be in proportion to the number of days he has worked for the month, so however that such allowance shall not exceed fifty-five rupees ;

(b) in the case of a worker paid at a daily rate, the allowance payable shall be a sum of two rupees and fifty cents per day for each day he has worked during the month, so however that the

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(4) Where a worker who is entitled to the Supplementary Allowance is also entitled to a Non-Recurring Cost of Living Gratuity in accordance with, or on the basis of, the provisions of any Collective Agreement or in terms of any Order made by the Minister under section 10 (2) of the Industrial Disputes Act or by reason of his employer voluntarily agreeing to pay such gratuity, such worker shall, as long as this Act is in force and notwithstanding anything to the contrary in such Agreement or Order, not be entitled to a Non-Recurring Cost of Living Gratuity in excess of the following amounts :—

- (a) where the Cost of Living Index is at a figure not exceeding 245.9, the amount determined in accordance with such figure ;
- (b) where the Cost of Living Index is at a figure exceeding 245.9 but not exceeding 273.4, the amount determined in accordance with the Cost of Living Index figure of 245.9 ; and
- (c) where the Cost of Living Index is at a figure exceeding 273.4, the aggregate of—
 - (i) the amount determined in accordance with the difference between such figure and the Cost of Living Index figure of 273.4 ; and
 - (ii) the amount determined in accordance with the Cost of Living Index figure of 245.9.

4. The provisions of this Act shall have force and effect notwithstanding anything in any other written law or in any Collective Agreement or other agreement or in any contract of employment whether oral, written, expressed or implied ; and accordingly in the event of any conflict or inconsistency between such provisions and any such other law, Collective Agreement or other agreement or contract, such provisions shall to the extent of such inconsistency prevail over such other law, Collective Agreement, other agreement or contract.

5. Subject to the provisions of subsections (3) and (4) of section 3, every worker who has been employed by any employer in any trade on the day immediately prior to the 1st day of September, 1979, shall, for so long as he continues to be a worker of such employer, continue to be so employed on such terms and conditions relating to salary, allowances or other payments in money by whatsoever name or designation called (excluding the supplementary allowance payable under this Act) as are not less favourable than those which such worker had enjoyed on the day immediately prior to the 1st day of September, 1979.

Special provisions regarding continuation of employment.

6. (1) The employer of a worker in any trade shall maintain and keep in the premises in which that trade is carried on, a register setting out—

Duty of employer to maintain register.

- (a) the name of each worker employed by him ;
- (b) the class of work performed by each worker employed by him ; and
- (c) the amount paid to each such worker in accordance with the provisions of this Act.

(2) Every employer who maintains or has maintained a register under subsection (1), shall preserve such register for a period of six years commencing on the 1st day of September, 1979, and shall, when required to do so by the competent authority, produce such register for inspection or furnish a true copy of such register or permit such a copy to be made.

7. The competent authority shall have the power—

Powers of competent authority.

- (a) to enter and inspect at all reasonable hours of the day or night any place in which workers in any trade are employed, for the purpose of examining any register or of ascertaining whether the provisions of this Act are being complied with ; or
- (b) if any such register is not available for examination when he is inspecting such place, to require the production of such register on a specified later date for examination

This Act to have force and effect notwithstanding anything in any other written law, &c.

at such place or at the office of such authority ; or

- (c) to take copies of the whole or any part of any such register ; or
- (d) to interrogate any person whom he finds in such place and whom he has reasonable cause to believe is an employer of workers employed in any trade carried on in such place ; or
- (e) to direct, in writing, any employer of workers in any trade to furnish to him on or before a specified date—
 - (i) a return relating to all workers employed by any such employer or any specified class or description of such workers and containing such other particulars as he may require for the purposes of this Act ;
 - (ii) such information or explanation as he may require in respect of any particulars stated in any return furnished by any such employer ; or
 - (iii) a true copy of the whole or any part of any register maintained by any such employer.

Offences and penalties.

8. Every person who—

- (a) fails to comply with the provisions of section 6 ; or
- (b) fails to furnish such means as are necessary for any entry or inspection by the competent authority for the exercise of his powers under section 7 ; or
- (c) hinders or obstructs such authority in the exercise of the powers conferred by that section ; or
- (d) refuses to produce any register or furnish any information which such authority requires him to produce or furnish ; or
- (e) makes or causes to be made in any register, any statement which is

false in any material particular, or produces, or causes or knowingly allows to be produced, any register containing a false statement to such authority, knowing the same to be false ; or

- (f) furnishes any information to such authority acting under the powers conferred by that section, knowing the same to be false ; or
- (g) makes default in complying with any directions given by such authority under section 7, or who, when called upon to furnish a return under that section, knowingly makes or furnishes or causes to be made or furnished, a return containing any false statement,

shall be guilty of an offence and shall be liable on conviction before a Magistrate 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.

9. The supplementary allowance payable to a worker under this Act shall be deemed for all purposes of written law, including—

- (a) contributions to Employees' Provident Fund and pension ;
- (b) annual holiday remuneration ;
- (c) overtime remuneration ;
- (d) maternity benefits payments ; and
- (e) bonuses and gratuities,

Payment due under this Act to constitute part of a worker's wages.

to constitute part of his wages, and accordingly every employer of such worker shall pay such supplementary allowance within the period within which such employer is required by any written law to pay the wages or salary of such worker.

10. (1) Any employer who fails to pay a sum required to be paid to a worker of such employer under this Act or fails to comply with the provisions of section 5 or section 9 shall be guilty of an offence and shall be liable on conviction before a Magistrate 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.

Failure to pay sum due to workers.

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(2) Upon conviction by the Magistrate of an employer for failure to pay any sum required to be paid to a worker of such employer under this Act, the court shall, in addition to any other penalty which it may impose for such offence, order such employer to pay such sum to such worker within a period specified in the order, and if such sum is not so paid, such sum shall be recovered and paid to such worker on the order of the court, as if it were a fine imposed by the court.

Recovery of sums due to workers in certain cases.

11. (1) Where an employer has been convicted for failure to pay any sum required to be paid to a worker of such employer under this Act, then, if a notice in the prescribed form of intention so to do has been served on the employer at any time before the date of commencement of the trial, evidence may be given of any failure on the part of the employer to pay any sum in accordance with the provisions of this Act to that worker or any other worker or workers at any time during the six years preceding the date on which the complaint was made to court of the offence of which the employer has been so convicted and, on proof of the failure, the court may order the employer to pay such sum as it may be found by the court to be due from him to such worker or workers. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

(2) In this section "prescribed" means prescribed by regulation made under section 12.

Regulations.

12. (1) The Minister may make regulations in respect of matters for which regulations are authorized or required to be made 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.

(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 such 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.

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

" Collective Agreement " shall have the same meaning as in the Industrial Disputes Act ;

" Commissioner " means the person for the time being holding the office of Commissioner of Labour and includes any person for the time being holding office as a Deputy Commissioner of Labour or as a Senior Assistant Commissioner of Labour or as Assistant Commissioner of Labour or as a labour officer ;

" earnings " shall have the same meaning as in the Employees' Provident Fund Act ;

" employer " means any person who on his own behalf employs, or on whose behalf any other person employs, any worker in any trade and includes any person who on behalf of any other person employs any worker in any trade ;

" trade " includes any industry, business, undertaking, occupation, profession or calling carried on, performed or exercised by an employer or worker, and any branch of, or any function or process in, any trade, but does not include any industry, business or undertaking which is carried on by any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance*, with funds

* Repealed and replaced by the Companies Act, No. 17 of 1982.

or capital wholly or partly provided by the Government by way of grant, loan or otherwise ;

wages " or " salary " shall mean the aggregate of—

- (a) the contractual wage or salary of the worker or the wage prescribed by the relevant Wages Board for the trade to which the worker belongs ;
- (b) any amount payable to the worker under the Interim Devaluation Allowance of Employees Act ;
- (c) any amount payable to the worker under the Budgetary Relief Allowance of Workers (No. 1) Law;
- (d) any amount payable to the

worker under the Special Allowances of Workers Law ;

- (e) any amount payable to the worker under the Budgetary Relief Allowance of Workers (No.2) Law ; and

- (f) any amount payable to the worker in accordance with the provisions of or on the basis of any Collective Agreement ;

" worker " means a person employed in any capacity by any employer under a contract whether oral, written, expressed or implied to perform any work in any trade and includes a worker whose salary or wages are regulated by any written law or otherwise and a worker employed on a piece-rate basis but does not include a domestic servant or an employer's personal chauffeur.

CHAPTER 171

SERVICE CONTRACTS

Ordinances Nos. 11 of 1865, 16 of 1884, 16 of 1905, 23 of 1912, 41 of 1916, 43 of 1921, 27 of 1927.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO SERVANTS, LABOURERS, AND JOURNEYMEN ARTIFICERS UNDER CONTRACTS OF HIRE AND SERVICE.

[1 st July, 1866.]

Short title. 1. This Ordinance may be cited as the Service Contracts Ordinance.

Interpretation. 2. The word "servant" shall, unless otherwise expressly qualified, extend to and include menial, domestic, and other like servants, pioneers, kanganies, and other labourers, whether employed in agricultural, road, railway, or other like work.

Verbal contract of service to be a contract of service for one month. 3. Every verbal contract for the hire of any servant, except for work usually performed by the day, or by the job, or by the journey, shall (unless otherwise expressly stipulated, and notwithstanding that the wages under such contract shall be payable at a daily rate) be deemed and taken in law to be a contract for hire and service for the period of one month, and to be renewable from month to month, and shall be deemed and taken in law to be so renewed, unless one month's previous notice or warning be given by either party to the other of his intention to determine the same at the expiry of a month from the day of giving such notice.

Wages when payable. 4. (1) The wages of such servant shall be payable monthly, except where the service shall have been determined by notice on a day other than the last day of the month, in which case the wages for the broken period shall be payable to the day the service is so determined, and such wages, where the same shall not be payable at a monthly rate, shall be computed according to the number of days on which such servant shall have been able and willing to work ; or, if payable at a monthly

rate, shall be in proportion to the number of days on which he shall have been so able and willing as aforesaid. Any employer shall be entitled to discharge any such servant from his service under any such contract, without previous notice, provided such servant be instantly paid his wages for the time he has served, and also for one month from the time of such discharge:

Provided always that any such contract may at any time be determined by the misconduct of either party in their relative capacity of master and servant, which may be proved by either party against the other.

(2) Where any contract is so determined by misconduct on the part of the master, he shall pay to a servant, justly demanding discharge on account of such misconduct, wages up to the date of discharge and in addition, in the case of a servant employed on a contract for hire and service for a period of time, a sum equivalent to the wages which would be earned by such servant during the period of his engagement, such period however not exceeding one month for the purpose of this section.

(3) Where a master summarily discharges a servant employed and paid by the day on account of misconduct on the part of the servant, he shall pay to such servant wages earned by him up to the date of discharge, and in the case of a servant employed on a contract for hire and service for a period of time longer than one day, it shall be lawful for the master in his discretion to decline to pay any wages claimed by such servant subsequent to the last day of the last

preceding period for which such servant was employed, provided that payment of wages earned shall not be so refused for any period exceeding one month reckoned from and immediately prior to the date of discharge.

(4) Any master failing to pay, on the day when the contract of service is determined, the wages of any servant which may be due to such servant under this section shall be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

Term of verbal contract for journeyman artificer.

5. Every verbal contract for the hire, according to time, of any journeyman artificer (where no special contract or agreement shall have been made and duly proved) shall be deemed and taken in law to be a contract for the hire of such artificer for one day, and no longer.

Proviso, if service be continued after the time agreed upon.

6. Provided always that nothing in the preceding sections of this Ordinance shall be construed to prevent any servant or journeyman artificer, who may continue in the service of his employer beyond the period for which any verbal contract entered into by him is respectively declared binding only in law, as aforesaid, from recovering his wages according to the full period of time of his being in such service; nor to prevent any similar subsequent verbal contract being respectively implied in law from the continuance of such service or otherwise.

Written contracts with servants and journeymen artificers for terms of service exceeding one month, but not exceeding three years.

7. No contract entered into in Sri Lanka for the hire and service of any servant or journeyman artificer for any period of time longer than one month shall be valid in law, so as to subject any party thereto to the provisions of this Ordinance for not performing the same, unless such contract shall be in writing and shall clearly express the terms and conditions thereof, and shall be signed or acknowledged by the parties thereto in the presence of a Magistrate, or a Justice of the Peace, or other person expressly authorized by the Minister in charge of the subject of Justice, such Justice or other person not being himself the employer of such servant or journeyman artificer or the agent of such employer. And it shall be the duty of such Magistrate, Justice of the Peace, or other authorized person to see that the contract is fully

explained to the parties, and to certify on the contract that they fully understand the terms thereof and are desirous to fulfil the same. And such contract, when produced in evidence and bearing the certificate of the Magistrate, Justice of the Peace, or duly authorized person as aforesaid shall be prima facie evidence of the matters and things contained therein. And every such contract shall be executed in triplicate; and it shall be the duty of such Magistrate or Justice of the Peace, or other authorized person as aforesaid, to give or to cause to be given one copy thereof to the servant, and to send or to cause to be sent, within ten days of the execution thereof, another copy thereof to the Magistrate of the district wherein such contract shall have been executed, and in default thereof such Magistrate or Justice shall be liable to a penalty of fifty rupees. And the said Magistrate is hereby required to preserve the said counterpart, and to allow any person who may be interested in the said contract to inspect the same:

Provided always that no contract (excepting contracts made under section 8 of this Ordinance) for the hire and service of any servant or journeyman artificer (whether made in Sri Lanka or in India, as provided by section 9) shall be valid under the provisions of this Ordinance if made for a longer period of hire or service than three years.

8. It shall be lawful for the Director of Buildings or of Highways or the Surveyor-General, or any other person expressly authorized thereunto by a Minister, to enter into any contract on behalf of the Republic of Sri Lanka, for the hire and service of any person to be employed as a servant or artificer for any period not exceeding five years:

Contracts for the hire of persons to be employed in the service of Government.

Provided that such contract, if made for a period of hire or service exceeding one month, shall (if entered into in Sri Lanka) be in writing, and shall be executed in the same manner and be subject to the same rules as are prescribed in the preceding section as respects contracts in the case of persons to be employed in service other than that of the Government.

Contracts entered into in India for hire and service in Sri Lanka.

9. Every contract entered into in India for the hire and service in Sri Lanka of any servant or journeyman artificer shall be valid and binding so as to subject the parties thereto to the provisions of this Ordinance, notwithstanding that the same be not executed in the manner prescribed by sections 7 and 8 of this Ordinance :

Provided that such contract be in writing and signed or acknowledged by the parties thereto or their agents respectively, and clearly express the terms and conditions thereof; and provided also that such contract be valid and binding according to the laws of India in force at the time of the entering into such contract; and every such contract as aforesaid when produced in any court of Sri Lanka shall be deemed valid and binding according to such laws as aforesaid, unless the contrary be proved. It shall be the duty of such employer or his agent with whom any such contract shall be entered into to give, at the time of entering into such contract, a copy thereof to the servant or journeyman artificer with whom such contract shall have been entered into.

Written contracts how determinable.

10. Unless provision to the contrary be expressly made therein, no contract entered into and required to be in writing under the provisions of this Ordinance shall be determinable before the expiration of the period specified therein, except by the mutual consent of the contracting parties, expressed in writing, signed or acknowledged by them in the presence of two witnesses, or except when the party contracting to be employed shall have been convicted of an offence, or have become a prisoner, or permanently disabled from completing his contract, and his employer shall elect to determine the contract, or except for some reason sufficient in law to set it aside:

Provided that, in case of such disability to serve, the employer shall be bound to furnish the immigrant from India who shall have contracted in India for any period of service in Sri Lanka, or who shall have contracted in Sri Lanka for any period of service not less than one year, with adequate means of returning to his own country.

11. Upon any complaint by any servant or journeyman artificer for non-payment of wages, or damages for breach of contract or misconduct by his employer, before a court having jurisdiction in that behalf, it shall be lawful for such court, at its discretion, to make a proportional abatement out of any sum to be awarded as the wages or damages due to any such servant or artificer, for such days or time as he shall have been proved to have been, without the consent of his employer, absent from or neglecting his service or work, and also for the value of any breakages or damage done to any of the property of his employer by or through the misconduct or gross negligence or carelessness of such servant or journeyman artificer.

Court may make abatement of wages or damages in case of misconduct.

12. If any person shall knowingly and wilfully pretend or falsely assert in writing that any servant or journeyman artificer has been hired or retained in his service or employment, or in the service or employment of any other person or persons, for any period of time whatsoever or in any station or capacity whatsoever, other than that for which such servant or artificer shall have been so employed, hired, or retained, or if any person shall otherwise knowingly and wilfully write, sign, or give any untrue, false, forged, or counterfeit certificate or writing in favour of the character of such servant or artificer, then in every such case such person or persons so offending shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour not exceeding twelve months, or to such fine together with such imprisonment, at the discretion of the court.

Persons giving false character.

13. If any person shall offer himself as a servant or journeyman artificer, asserting or pretending that he hath served in any service or employment in which such servant shall not actually have served, or with a false, forged, or counterfeit certificate of his character or shall in anywise add to or alter, efface, or erase any word, date, matter, or thing contained or referred to in any certificate given to him by his last or any former actual employer, or by any other person or persons duly authorized by such employer to give the same, then in any of the said cases such person or persons so offending shall be liable on conviction to a

Servant, &c., making false statement of former employment or altering character.

fine not exceeding thirty rupees, or to imprisonment, with or without hard labour, not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

thereupon be entitled to determine such contract, if he shall so elect, and give notice of such being his intention to the person in whom the estate shall have become vested or to whom it shall have been transferred, and shall receive all wages then due to him under or by virtue of such contract:

Servant, &c., denying former employment.

14. If any person, having been before in service or employment as a servant or artificer, shall, when offering to hire himself in any employment, capacity, or service, falsely and wilfully pretend not to have been hired or retained in any such previous employment, capacity, or service, then and in such case every such person so offending shall be liable on conviction to a fine not exceeding thirty rupees, or to imprisonment, with or without hard labour not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

Provided, however, that the last-mentioned proviso shall not be held to apply to cases where estates are held in partnership by several persons, and where one or more of the partners retire from the partnership, or when, on such retirement, other partner or partners shall take the place of the retiring partner or partners, one or more of the original partners who were parties to the contract continuing in the partnership.

Transfer of contract of service to new proprietor or manager of estate.

15. If the estate upon which any agricultural servant or journeyman artificer is employed under any contract to serve for a period exceeding one month shall, during the pendency of such contract, become vested in or be transferred to or placed under the superintendence or management of any person other than the person with or by whom such contract was entered into, such contract and all the rights and liabilities incidental thereto shall be deemed in law to be transferred to the person in or to whom the said estate shall become vested or transferred as aforesaid, or under whose superintendence or management the said estate shall be placed as aforesaid, and such last-mentioned person and such servant or artificer shall be respectively bound to perform all the terms and conditions of the contract in the same manner, or as near thereto as the nature of the case will admit, as if the contract had been originally entered into between such person and such servant or artificer:

16. Neither the alleged commission of any crime or offence by any person or persons under the provisions of this Ordinance, nor the conviction nor acquittal of any person or persons of any crime or offence under this Ordinance, shall be a bar to any civil action for damages against such person or persons at the instance of any person or persons who may have suffered any injury, or who may allege that he or they has or have suffered any injury from or by reason of the commission of any such crime or offence.

Penal provisions of this Ordinance not to affect civil actions.

17. Any servant who shall be incapacitated by sickness from labour whilst in the service of any employer shall be entitled to lodging, food, as well as medical care, at the expense of such employer during such incapacity:

Employer bound to find lodging, food, and medical care to sick servant.

Provided that the employer shall not be bound to pay to the servant during such period his wages in addition;

Provided always that in case such estate shall become vested in or transferred to any person other than the person with whom such contract shall have been entered into, such servant or journeyman artificer shall

Provided further, that nothing herein contained shall prevent the employer from determining the contract under section 10 of this Ordinance in case the servant shall become permanently disabled from completing his contract.

CHAPTER 611

STREET COLLECTIONS

Ordinances AN ORDINANCE TO REGULATE AND CONTROL THE COLLECTION OF MONEY OR THE
 Nos.47of1935, SALE OF ARTICLES FOR CHARITABLE PURPOSES IN STREETS OR PUBLIC
 61 of 1939, PLACES.
 3 of 1946,
Act
 No. 38 of 1958.

[2nd December, 1935.]

Short title. **1.** This Ordinance may be cited as the Street Collections Regulation Ordinance.

Power to make regulations to control street collections. **2.** (1) The Minister may make regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within the administrative limits of any local authority to collect money or to sell articles for the benefit of charitable or other purposes.

(2) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation shall have effect unless it has been approved by Parliament, nor until notification of such approval has been published in the Gazette.

(3) A regulation made by the Minister when approved by Parliament shall, upon the notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

3. A regulation made under section 2 shall not apply to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade, and for the purpose of earning a livelihood, and no representation is made by or on behalf of the seller that any part of the proceeds of sale will be devoted to any charitable Purpose-

Regulations not to affect ordinary trade.

4. Any person who acts in contravention of any regulation made under section 2 shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees.

Penalty for breach of regulations.

5. In this Ordinance, unless the context otherwise requires—

Interpretation.

"local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

[§ 2, 38 of 1958.]

" street" includes any highway and any public bridge, road, lane, footway. square, court, alley or passage whether a thoroughfare or not.

CHAPTER 102

STATE DEBTORS

Ordinance No. 14 of 1843. AN ORDINANCE TO PROVIDE FOR THE BETTER SECURITY AND RECOVERY OF DEBTS DUE TO THE STATE.

[8th November, 1843.]

Short title. 1. This Ordinance may be cited as the State Debtors Ordinance.

Government Agent to seize property of debtor upon knowledge or notice of debt. 2. It shall be lawful for any Government Agent (or other person duly authorized by writing signed by such Government Agent) within his administrative district, and upon his own knowledge of the default of payment by any debtor to the State, or notice to him given of any debt having accrued due to the State, promptly and immediately to seize, take, and in safe custody to keep, but without removing the same (except in those cases only where there are no adequate means for safely and securely keeping the said property at the place where it is seized, and no sufficient security given for the value thereof), all and every the property of any debtor or debtors to the State, to an amount computed to be sufficient to cover the said debt so due and owing and the costs attending the same.

Notice, libel, or information to be filed in court. 3. Within seven days at farthest (exclusive of public holidays) after such seizure as aforesaid, a libel or information setting forth the nature and amount of the debt so due to the State, shall be filed in any court having jurisdiction in the case, and every such court, upon any such libel or information being filed, together with the certificate of the property seized, signed by the person making the seizure, is hereby required to deliver to the Fiscal a warrant to sequester the property of the said debtor, and any further proceedings which may be had thereon shall be according to such general rules of practice as now are or hereafter may be framed by the Judges of the Supreme Court.

Process thereupon. 4. All lands and tenements which any Treasurer, Government Agent, Assistant Government Agent, Collector of Customs, Government farmer or renter, or other officer employed in the collection, charge, receipt, or expenditure of the revenue, public money, stores, or other property belonging to Government, or any other public accountant, now hath or at any time hereafter shall have, within the time during which he shall respectively remain accountable to Government, shall be liable for the payment of all arrearages or debts, and all fines, penalties, and forfeitures due or adjudged to the State by or from such officer or public accountant, and the said lands and tenements, and all other the goods, chattels, property, and effects of the said officer or public accountant, shall be seized and sold in execution for the payment of all such arrearages or debts, fines, penalties, or forfeitures as may be adjudged due and payable to the State by any competent court of law, in like and as large and beneficial a manner, to all intents and purposes, as if the said officer or public accountant had, the day he became first an officer or accountant as aforesaid, specially mortgaged the said lands and tenements to the State for the full payment of such arrearages or debts, fines, penalties, and forfeitures, and had also at the same time, by a notarial bond, acknowledged the said arrearages or debts, fines, penalties, and forfeitures to be due to the State.

Property of public accountant liable for debt, &c. 5. All debts due to the State upon mortgage, judgment, award, bond, or other speciality, or upon simple contract, from any other persons than officers and public accountants mentioned in the preceding clause, shall be entitled from the accruing thereof respectively to a preference of State debts on mortgage, &c., preferred to all subsequent debts.

CHAPTER 565

SUBURBAN DAIRIES AND LAUNDRIES

Ordinances AN ORDINANCE TO MAKE BETTER PROVISION FOR THE REGULATION OF DAIRIES AND LAUNDRIES SITUATED OUTSIDE THE MUNICIPAL LIMITS OF COLOMBO.
 Nos. 38 of 1908,
 16 of 1914,
 7 of 1922,
 7 of 1928,
 61 of 1939,
 3 of 1946,
 57 of 1946,
 29 of 1947,
Act
 No. 12 of 1952.

[1st March. 1910.]

- | | | | |
|---|---|---|--------------------------|
| Short title. | 1. This Ordinance may be cited as the Suburban Dairies and Laundries Ordinance. | 4. In this Ordinance, unless the context otherwise requires— | Interpretation. |
| Application of Ordinance. | 2. The provisions of this Ordinance apply only to—

(a) dairymen, dairy farmers, cow-keepers, and purveyors of milk who sell or supply milk from dairy premises outside the Municipal limits of Colombo to persons resident within such limits ;

(b) dairy premises, milk stores, and milk shops situated outside the Municipal limits of Colombo from which milk is sold or supplied to persons resident within the said Municipal limits;

(c) laundrymen resident or having their laundry premises outside the Municipal limits of Colombo who wash for persons resident within such limits;

(d) laundry premises situated outside the said limits in which washing is carried on for persons resident within such limits. | "administrative region" means an administrative region defined by Order made under section 2 of the Local Government (Administrative Regions) Ordinance;

"Assistant Commissioner" means the Assistant Commissioner of Local Government for any administrative region;

"dairy premises", "milk stores", "dairyman", "milk vendor", "laundryman", and "laundry premises" have the same meanings as in the Municipal Dairies and Laundries Ordinance ;

"infectious disease", in the sections of this Ordinance relating to dairies, means any disease which the Minister, in pursuance of section 11 of the Municipal Dairies and Laundries Ordinance, may declare to be an infectious disease ;

"prescribed" means prescribed by this Ordinance or by any rule made thereunder, | Appointment of officers. |
| Limitation of the application of the Municipal Dairies and Laundries Ordinance. | 3. Notwithstanding the provisions of section 15 of the Municipal Dairies and Laundries Ordinance, the provisions of Chapter I of the said Ordinance shall not extend to the persons and premises mentioned in paragraphs (a) and (b) of section 2 of this Ordinance. | 5. There may be appointed a suburban medical officer of health (in this Ordinance called "the health officer"), and such inspectors (veterinary or otherwise), clerks, | |

and other officers as may be necessary for carrying out the provisions of this Ordinance under the supervision of the Director of Health Services.

DAIRIES

Licence to sell milk.

6. It shall be unlawful for any person having his dairy premises outside the Municipal limits of Colombo to sell or supply milk to any person resident within such limits, unless he is licensed by the Assistant Commissioner for the administrative region within which such premises are situated on the recommendation of the Director of Health Services or the health officer to carry on business as a dairyman in such premises in accordance with this Ordinance.

Form of licence and duty thereon.

7. Every such licence (in this Ordinance called " a dairyman's licence ") shall be in the prescribed form, and shall expire on the thirty-first day of December next following the date when the licence was issued.

A duty of five rupees shall be chargeable upon the issue of every dairyman's licence, and shall be levied in the prescribed manner.

Penalty for selling milk without dairyman's licence.

8. Any person who sells or supplies milk from dairy premises situated outside the Municipal limits of Colombo to any person resident within such limits without being licensed to carry on business as a dairyman, or, being so licensed, sells or supplies milk as aforesaid from dairy premises to which his licence does not extend, shall be guilty of an offence, and shall be liable on a first conviction to a fine which may extend to fifty rupees, and on any subsequent conviction to a fine which may extend to one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding six months, or to both.

Power to inspect dairy premises.

9. The health officer or any inspector may at all reasonable times enter, inspect, and examine any dairy premises, and may take away samples of the milk there found, and of the water of any well or other source of water supply therein or thereon for the purpose of examination or analysis only.

10. If the Director of Health Services is satisfied from the health officer's report that any dairy premises are in an unclean or unwholesome condition, or that diseased cows are milked in the dairy, or that any well or other source of water supply on the dairy premises or used in connexion therewith is polluted, or if any person affected with an infectious disease is found to be in any part of the dairy premises in such circumstances that the milk is likely to be contaminated or made unwholesome, then the Director of Health Services may by notice under his hand give such directions as he may think fit to the dairyman or person in charge of the dairy premises for—

Power to require dairy-man to keep dairy in a sanitary condition.

- (a) cleansing or disinfecting the dairy; or
- (b) removing any diseased animal from the dairy premises ; or
- (c) closing any such well or source of water supply, and for such purpose the Director of Health Services may require the person in charge of the premises to discontinue the use of the water thereof for any purpose whatsoever for such period as the Director of Health Services may direct, or to fill up the said well or source of water and keep the same filled up; or
- (d) removing any person affected with an infectious disease,

and may by the like notice forbid the sale or supply of milk from the dairy premises until such directions are complied with to his satisfaction.

11. On the appearance of any infectious disease in man or beast in any dairy premises, the person in charge, and also the medical practitioner attending the case, shall immediately notify the case to the health officer.

Infectious diseases in dairy premises.

12. Whenever it appears to the Director of Health Services that the spread of any disease is attributable to the milk supplied by any dairyman or milk vendor, he may require such dairyman or milk vendor wholly to discontinue the supply,

Discontinuance of milk on account of disease.

distribution, and sale of milk, and furnish forthwith upon demand a full and complete list of all his customers and to give such assistance to discover the residence of any of them as the Director of Health Services may require.

Persons suffering from infectious diseases prohibited from taking part in dairy operations.

13. No dairyman, cow-keeper, or purveyor of milk shall knowingly allow any person suffering from any infectious disease, or having recently been exposed to infection from a person so suffering, to milk cows or to handle vessels used for containing milk, or in any way to take part or to assist in the conduct of the business of the dairyman, cow-keeper, or purveyor of milk, until he has satisfied the health officer that all danger of communication of infection to the milk or of its contamination has ceased.

Sale or supply of unwholesome milk.

14. It shall be unlawful for any dairyman or purveyor of milk to keep or deposit milk in any room used for sleeping or dwelling in, or in any other place or way calculated to render such milk unwholesome or injurious to health, or to sell or supply any milk which has been produced from any diseased animal, or which has been in any way exposed to infection from any person suffering from any infectious disease, or which has been upon or in any dairy premises from which the sale of milk has been directed to be discontinued on account of disease as provided by section 12 of this Ordinance.

Penalties.

15. Any person who wilfully disobeys or acts in violation of any of the provisions contained in any of the last four preceding sections, or shall resist or wilfully obstruct any person in the lawful exercise of any of the powers conferred under sections 9 and 10, or shall without lawful excuse neglect or disobey any requirement made under the provisions of sections 10 and 12 hereof, or shall neglect or refuse to obey any order or direction of the Director of Health Services made under the said sections within the time limited in that behalf by such order or direction, shall for every such offence be liable on conviction to a fine not exceeding two hundred rupees, or to simple or rigorous imprisonment for a term not exceeding two months.

16. (1) If any person who is in the employ of a dairyman licensed under this Ordinance sells, hawks about, or exposes for sale within the Municipal limits of the town of Colombo any milk which has been adulterated with water or any foreign substance whatever, such dairyman shall be deemed to be guilty of an offence, and shall be liable to pay a fine not exceeding fifty rupees.

Dairyman liable for acts of his employee.

(2) Such offence shall be triable by the Municipal Magistrate of Colombo, any law to the contrary notwithstanding.

Offence triable by Municipal Magistrate, Colombo.

(3) If any person when selling, hawking about, or exposing for sale milk as aforesaid has in his possession a badge issued under any rule made under this Ordinance to a dairyman licensed under this Ordinance, it shall be presumed for the purposes of this section that such dairyman is the employer of the person selling, hawking about, or exposing for sale milk as aforesaid.

Presumption as to dairyman being the employer of person possessing badge.

LAUNDRIES

17. (1) It shall be unlawful for any person having his laundry premises outside the Municipal limits of Colombo to wash for any person resident within such limits, unless he is licensed by the Assistant Commissioner for the administrative region within which such premises are situated on the recommendation of the Director of Health Services or the health officer to carry on business as a laundryman under this Ordinance.

licensing of laundries.

(2) Every such licence shall be in the prescribed form, and shall expire on the thirty-first day of December next following the date when the licence was issued.

(3) A duty of two rupees and fifty cents shall be chargeable upon the issue of every such licence, and shall be levied in the prescribed manner.

18. Any person who washes in laundry premises situated outside the Municipal limits of Colombo for any person resident within such limits without being licensed to carry on business as a laundryman under this Ordinance, or, being so licensed washes as aforesaid in premises to which his licence

Penalty for keeping laundry without licence.

SUBURBAN DAIRIES AND LAUNDRIES [Cap. 565]

does not extend, shall be guilty of an offence, and shall be liable to the penalty mentioned in section 8.

Director of Health Services, the health officer, or any inspector appointed under this Ordinance:

19. Sections 17 (1) (a), 17 (1) (b), 17 (1) (c), 20, 21, 22, 23, 24 and 25 of the Municipal Dairies and Laundries Ordinance shall extend to the laundrymen and laundry premises to which this Ordinance applies with the following modifications, that is to say :—

Provided that any person aggrieved by any adjudication of the Magistrate may appeal therefrom to the Court of Appeal.

21. (1) The Director of Health Services may (subject to the approval of the Minister) from time to time make and when made may revoke, add to, and alter, regulations for carrying into effect the purposes of this Ordinance, and in particular—

- (a) the powers assigned to the Mayor of the Municipal Council by section 17 (1) (a) shall be exercised by the Director of Health Services or by the health officer or by any inspector appointed under this Ordinance;
- (b) the powers assigned to the said Mayor by section 17 (1) (b) shall be exercised by the Director of Health Services or by the health officer;
- (c) the powers assigned to the Mayor by section 17 (1) (c) shall be exercisable only by the Director of Health Services;
- (d) in sections 20, 21, 22, 24 and 25 the words " Director of Health Services ", shall be substituted for the expressions " Municipal Council " or " Mayor of the Municipal Council " or " Mayor ";
- (e) in section 24 " health officer " shall be substituted for " medical officer of health of the Municipality ";
- (f) except as provided by this section, the provisions of Chapter II of the Municipal Dairies and Laundries Ordinance shall not extend to the laundrymen and laundry premises to which this Ordinance applies.

- (a) for prescribing the form of licence to be issued to dairymen and laundrymen;
- (b) for prescribing the receptacles in which milk may be stored or removed from dairy premises ;
- (c) for requiring all vessels, receptacles, or utensils used for the reception of milk or in connexion with any dairy premises to be kept in cleanly and sanitary condition;
- (d) for requiring that the interior surface of the walls of dairy premises is kept in a proper condition by means of plastering, whitewashing, or otherwise, and that the floors of dairy and laundry premises are kept cemented with proper provision for drainage;
- (e) for requiring dairymen licensed under this Ordinance and their servants to wear badges when following their trade within the Municipal limits of Colombo, for prescribing the form of such badges and for the issue of such badges, and for fixing and levying fees for the same,

GENERAL

20. All offences against this Ordinance may be heard and determined and all penalties thereunder may be imposed by the Magistrate having local jurisdiction in a summary way on the complaint of the

(2) Every such regulation when made, added to, or amended by the Director of Health Services and approved by the Minister shall be published in the Gazette and shall come into operation when so published.

(3) The breach or non-observance of any regulation so published shall be an offence, and any person convicted of such breach or non-observance shall be liable to a fine not exceeding twenty rupees, and to imprisonment of either description for a term not exceeding ten days.

22. (1) The Director of Health Services or the health officer may in his discretion refuse to recommend the issue of a dairyman's licence, or a licence to carry on business as a laundryman. if he considers that the premises in respect of which the licence is applied for are in an insanitary condition, or unfitted to be used as a dairy or laundry, as the case may be, or that the premises do not comply with the requirements of any regulations under this Ordinance.

Refusal and cancellation of licence.

(2) Whenever the holder of any such licence as is mentioned in the last preceding subsection is convicted of any offence against this Ordinance, the Assistant Commissioner for the administrative region within which the premises to which the licence applies are situated shall on the recommendation of the Director of Health Services or the health officer by notice in writing given to the licensee cancel and determine such licence.

23. The Minister may in his discretion direct by Order that the application of this Ordinance shall, subject to any exceptions and modifications specified in the Order, be extended to any Municipal town other than Colombo; or to any town for which an Urban Council or Town Council is constituted ; and thereupon, while the Order is in force, this Ordinance shall apply accordingly.

Extension of Ordinance to towns other than Colombo.

CHAPTER 78

SEX DISQUALIFICATION REMOVAL

Ordinance AN ORDINANCE TO ENABLE WOMEN TO BE ADMITTED TO THE LEGAL PROFESSION AND TO
No. 25 of 1933. BE APPOINTED AS COMMISSIONERS FOR OATHS.

[14th November, 1933.]

Short title. 1. This Ordinance may be cited as the Sex Disqualification Removal (Legal Profession) Ordinance.*

Women entitled to become attorneys-at-law. &c. 2. 'A woman shall not be disqualified' by reason only of her sex—

(b) from being authorized to practise as a notary by a warrant issued under the provisions of the Notaries Ordinance, or from practising or functioning as a notary under the provisions of that Ordinance or of any other written law; or

(a) from being admitted and enrolled, or from practising, as an attorney-at-law; or

(c) from being appointed, or from functioning, as a Commissioner for Oaths under the provisions of the Oaths Ordinance.

* See also Article 12 of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

CHAPTER 417

SENKADAGALA EKSATH BAUDDHA MANDALAYA

Act
No. 4 of 1980.

AN ACT TO INCORPORATE THE SENKADAGALA EKSATH BAUDDHA MANDALAYA.

[24th January, 1980]

Short title.

1. This Act may be cited as the Senkadagala Eksath Bauddha Mandalaya (Incorporation) Act.

(e) the conducting of sermons, discussions and talks, on the Dhamma and participation in religious activities; and

Incorporation of the Senkadagala Eksath Bauddha Mandalaya.

2. From and after the date of commencement of this Act, such and so many persons as now are members of the Senkadagala Eksath Bauddha Mandalaya (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 "Senkadagala Eksath Bauddha Mandalaya", 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.

(f) the taking of all other steps that are necessary and desirable for the promotion of the above-mentioned aims and objects.

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.

Board of Management.

(2) The first Board of Management of the Corporation shall be the members of the Board of Management of the Association holding office on the date of commencement of this Act.

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be:—

- (a) the fostering of Buddhism and the safeguarding of the special privileges of Buddhists;
- (b) the promotion of mutual co-operation and unity among Buddhists in the Kandy district and for that purpose consolidating Buddhist societies;
- (c) the performing of social service according to the principles of Buddhism and for that purpose encouraging the participation of Buddhists;
- (d) the advancement and development of the physical and intellectual development and culture of Buddhists,

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 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).

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 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 on the date of commencement 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 on the date of commencement 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, subject to the rules in force for the time being of the Corporation, be capable in law to—

Corporation may hold property, movable and immovable.

- (a) 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
- (b) sell, mortgage, lease, exchange or otherwise dispose of the same.

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, 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 rights of the Republic and others.

SPECIAL FUND (VOLUNTARY CONTRIBUTIONS FOR CHARITABLE PURPOSES)

CHAPTER 335

SPECIAL FUND

(VOLUNTARY CONTRIBUTIONS FOR CHARITABLE PURPOSES)

Act
No. 38 of 1971
(Part IV).

AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A SPECIAL FUND TO RECEIVE VOLUNTARY CONTRIBUTIONS IN MONEY MADE TO THE GOVERNMENT FOR SPECIFIED CHARITABLE PURPOSES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th October. 1971.]

Short title.

1. This Act may be cited as the Special Fund (Voluntary Contributions for Charitable Purposes) Act *.

(b) medical relief;

(c) the advancement of education or knowledge; or

Establishment of special deposit accounts to receive voluntary contributions in money made to the Government for specified charitable purposes.

2. (1) Any voluntary contribution made to the Government for any specified charitable purpose may be held in deposit in one or more accounts in the General Treasury, or in any such Kachcheri in the Island as may be determined by the Minister in charge of the subject of Finance.

(d) any other purpose beneficial to the public or any section of the public.

(2) The expression "charitable purpose" in subsection (1) means—

(a) the relief of poverty or distress;

3. Payments may be made from any deposit account established under section 2 from deposit accounts. by the Deputy Secretary to the Treasury, or by an officer authorized by such Deputy Secretary in that behalf, subject to the general directions and control of the Minister in charge of the subject of Finance.

* Sections 25 and 26 of the Finance Act, No. 38 of 1971, are renumbered sections 2 and 3 and reproduced under the title "Special Fund (Voluntary Contributions for Charitable Purposes) Act".

CHAPTER 208

STATE INDUSTRIAL CORPORATIONS

Act No. 49 of 1957.

AN ACT TO ENABLE THE ESTABLISHMENT OF CORPORATIONS WITH CAPITAL PROVIDED BY THE GOVERNMENT FOR SETTING UP AND CARRYING ON INDUSTRIAL UNDERTAKINGS, OR TAKING OVER AND CARRYING ON INDUSTRIAL UNDERTAKINGS PREVIOUSLY CARRIED ON BY CORPORATIONS ESTABLISHED UNDER THE GOVERNMENT SPONSORED CORPORATIONS ACT . TO REGULATE THE POWERS AND DUTIES OF THE CORPORATIONS ESTABLISHED UNDER THIS ACT; AND TO MAKE PROVISION FOR PURPOSES CONSEQUENTIAL TO THE AFORESAID MATTERS.

[1st November, 1957.]

Short title.

1. This Act may be cited as the State Industrial Corporations Act.

(iv) specify the initial capital of the corporation which shall not exceed such amount as shall have been approved by Parliament ;

Incorporation Order for establishment of a State industrial corporation.

2. (I) Where the Government considers it necessary that a corporation should be established for the purpose of—

(v) state the principal place of business of the corporation ;

(a) setting up and carrying on any industrial undertaking, or

(vi) fix the number of members of the board of directors of the corporation, the number so fixed being not less than three and not more than seven ;

(h) taking over and carrying on any industrial undertaking previously carried on by any corporation which was established under the Government-Sponsored Corporations Act and was subsequently dissolved,

(vii) appoint as the first members of such board any persons who, under this Act, are qualified for being such members ; and

the Minister, with the approval of the Government, may by Order (hereinafter referred to as the incorporation Order) published in the Gazette—

(viii) appoint one of the members of such board as the chairman of such board.

(i) specify the industrial undertaking (hereinafter referred to as the specified industrial undertaking ") to which the Order relates ;

(2) Upon the publication of the incorporation Order in the Gazette, a corporation (hereinafter referred to as the corporation) consisting of the persons who are for the time being members thereof by virtue of section 9, with the corporate name specified in such Order, and with perpetual succession shall be deemed to have been established.

(ii) declare that a corporation shall be established for the purpose of setting up and carrying on, or taking over and carrying on, as the case may be, the specified industrial undertaking ;

(iii) assign a corporate name to the corporation ,

(3) The corporation may sue and be sued in ks corporate name.

Objects of the corporation.

3. (1) The purposes constituting the specified industrial undertaking according to the description of that undertaking in the incorporation Order shall be the objects of the corporation.

(2) The Minister may, with the approval of the Government, alter the objects of the corporation by amending, by Order published in the Gazette, the description of the specified industrial undertaking contained in the incorporation Order.

Principal place of business of the corporation.

4. The principal place of business of the corporation shall be that specified in the incorporation Order.

Powers of the corporation.

5. (1) The corporation shall have the power to acquire and hold and to take on hire or lease any movable or immovable property and to give on hire or lease or to sell or otherwise dispose of any of its properties :

Provided that no immovable property of the corporation shall be sold without the prior approval of the Minister.

(2) The corporation shall have the power to do anything necessary for, or conducive or incidental to, the carrying out of its objects, including the power to borrow money for carrying out its objects and to secure the payment of any sum of money by the mortgage of any of its properties :

Provided that the corporation shall not borrow or secure the payment of any sum of money exceeding such amount as may be determined from time to time by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Liability of The corporation limited to its capital.

6. The liability of the corporation shall be limited to the capital of the corporation.

Seal of the corporation.

7. (I) The corporation shall have a common seal which shall be in the custody of the board of directors.

(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 two members of the board of directors both of whom shall sign the instrument or document in token of their presence.

(4) The board of directors shall maintain a register of the instruments or documents to which the seal of the corporation is affixed.

8. Subject to the other provisions of this Act-

General control of the affairs, and the exercise of the powers, of the corporation.

(a) the general control of the affairs of the corporation shall be vested in a board of directors constituted as hereinafter provided, and

(b) such board may exercise the powers of the corporation for the purpose of carrying out the objects of the corporation.

9. The persons holding office for the time being as members of the board of directors shall be the members, of the corporation.

Members of the board of the corporation.

10. The board of directors shall consist of such number of directors as is fixed by the incorporation Order.

Number of directors.

11. A Member of Parliament shall not be qualified to be a director.

Disqualification for being a director.

12. The Minister shall appoint the directors from among persons (including officers in the public service) who appear to the Minister to have had experience of and shown capacity in industrial, administrative, commercial, financial or legal matters, applied sciences, or the organization of workers.

Appointment of directors.

13. The Minister shall appoint one of the directors as the chairman of the board of directors,

Appointment of chairman of the board of directors.

14. (I) The Minister may at any time appoint one of the directors as the managing director of the corporation,

Managing director of the corporation.

The chairman of the board of directors shall be eligible for appointment as the managing director.

(2) The managing director of the corporation shall be eligible for appointment as the chairman of the board of directors.

(3) The terms and conditions of the appointment of the managing director of the corporation shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(4) The managing director's term of office, his remuneration, his resignation or removal from or vacation of office and his eligibility for reappointment on vacation of office shall be in accordance with the terms and conditions of his appointment,

Term of office of directors other than managing director.

15. Every director, other than the managing director, shall hold office for a period of three years, unless he vacates or is removed from office earlier.

Appointment of acting directors.

16. If any director 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 appoint some other person to act as a director in his place.

Resignation of directors other than managing director.

17. A director, other than the managing director, may resign office by letter addressed to the Minister.

Removal of directors, other than managing director, from office.

18. The Minister may, if he thinks it expedient to do so, remove a director, other than the managing director, from office.

Eligibility of directors, other than managing director, for re-appointmeni.

19. A director, other than the managing director, who vacates office by effluxion of time shall be eligible for reappointment.

Remuneration of directors, other than the managing director.

20. The directors, other than the managing director, may be remunerated out of the funds of the corporation in such manner and at such rates as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may determine.

The first directors.

21. The first directors shall be the persons appointed as such directors by the

incorporation Order, and their term of office shall commence on the date of publication of such Order in the Gazette.

22. The first chairman of the board of directors shall be the person appointed as such chairman by the incorporation Order, ^{The first chairman of the board of directors}

23. (1) The initial capital of the corporation shall be that specified in the incorporation Order. ^{Capital of the corporation.}

(2) The capital of the corporation may be increased from time to time by such amount as may be authorized by resolution of Parliament to be paid to the corporation for the purpose of increasing such capital.

24. The quorum for any meeting of the board of directors shall, until it is prescribed by regulation, be three members, ^{Quorum for meetings of board of directors}

25. (1) The Minister may, subject to the provisions of subsection (2) and subsection (3), by Order published in the Gazette transfer to the corporation—

^{Transfer of State property and certain contracts and liabilities to the corporation.}

(a) any movable or immovable property of the State required for the purposes of the corporation, and

(b) any contracts and liabilities of the State connected with such purposes.

(2) No movable property, and no contract or liability, of the State shall be transferred to the corporation under subsection (1) without the concurrence of the Minister in charge of the subject of Finance.

(3) No immovable property of the State shall be transferred to the corporation under subsection (1) without the concurrence of the Minister in charge of the subject of Finance and the Minister to whom the subject of State lands is for the time being assigned.

(4) Upon the publication of an Order under subsection (1) in the Gazette—

(a) the properties specified in that Order shall vest in and be the properties of the corporation,

(h) the contracts specified in that Order

shall be deemed to be the contracts of the corporation and all subsisting rights and obligations of the State under such contracts shall be deemed to be the rights and obligations of the corporation, and

(c) the liabilities specified in that Order shall be deemed to be the liabilities of the corporation.

Appointment of public officers to the staff of the corporation.

26. (1) At the request of the board of directors, 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 corporation for such period as may be determined by such board with like consent or be permanently appointed to such staff.

(2) The provisions of subsection (1) shall apply to the appointment as the managing director of the corporation of any such member of the board of directors as is an officer in the public service.

(3) Where an officer in the public service is temporarily appointed to the staff of the corporation—

(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 corporation, 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 corporation, be deemed to have been seconded to an office to which pension rights are not attached, and accordingly section 24 of those Minutes shall apply to him, and

(ii) in respect of him the board of directors shall pay out of the funds of the corporation 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 corporation 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 corporation, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the corporation 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 corporation, continue to pay to the Public Service Provident Fund such contributions as he was liable under that Ordinance to pay, and in respect of him the board of directors shall pay at the close of each financial year out of the funds of the corporation 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.

(4) Where an officer in the public service is permanently appointed to the staff of the corporation -

(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 corporation, 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 (he staff of the corporation,
- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the corporation is terminated by retirement on account of age or ill health or by the abolition of the post held by him in the corporation 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 corporation, 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 corporation may be made in respect of him;and
- (c) if, at the time of his permanent appointment to the staff of the corporation, 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.

(5) Where the corporation 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 corporation by that person shall be regarded as service to

the Government for the purpose of discharging the obligations of such contract.

27. Out of the profits of the corporation in each year the board of directors shall, with the approval of the Minister, pay to general or specific reserves of the corporation such sums of money as may be determined by such board with such approval, and the balance, if any, of such profits shall, with the approval of the Minister in charge of the subject of Finance, be paid to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund.

Disposition of profits of the corporation.

28. (1) The financial year of the corporation shall end on the thirty-first day of December.

Accounts of the corporation.

(2) The board of directors shall cause the accounts of the corporation to be kept in the same manner and form as the accounts of a company under the Companies Ordinance*.

(3) The books of accounts of the corporation shall be kept at the principal place of business of the corporation.

29. (1) The accounts of the corporation shall be audited annually by an auditor (hereinafter referred to as the auditor) appointed by the Minister on the advice of the Auditor-General. The auditor so appointed shall be registered under the Companies Ordinance*. The auditor shall receive such remuneration from the funds of the corporation as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(2) The Auditor-General shall have power—

(a) to direct the manner in which the corporations's accounts 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 the auditor, and

(b) to conduct a supplementary or test audit of the corporation's accounts by such person or persons as the

* Repealed and replaced by the Companies Act. No. 17 of 1982.

Auditor-General may authorize in that behalf, and for the purpose 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.

(3) The auditor shall examine the accounts of the corporation and furnish a report stating—

- (i) whether he has or has not obtained all the information and explanations required by him, and
- (ii) whether the balance sheet and 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.

(4) 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.

(5) The Auditor-General shall transmit the audit report together with his comments upon, or his supplement to, such report to the board of directors.

30. (1) The board of directors shall, on receipt of the auditor's report in each year, transmit to the Minister—

- (a) a copy of such report together with the Auditor-General's comments (if any) upon, and his supplement (if any) to, such report,
- (h) a copy of the profit and loss account,
- (c) a copy of the balance sheet, and
- (cf) a report by such board on the work of the corporation for the period for which the profit and loss account and the balance sheet have been made up.

(2) The Minister shall cause copies of all the documents specified in subsection (1) to be laid before Parliament for approval.

31. (1) The Minister may, from time to time, give the board of directors general directions, and, after consultation with such board, give such board special directions, as to the exercise of the powers and the discharge of the duties of such board, and such directions shall be carried out by such board.

(2) The Minister may, when he considers it necessary to do so, direct any person to hold an inquiry into the work and financial position of the corporation.

(3) When such inquiry as is referred to in subsection (2) is held, any director or any member of the staff of the corporation shall, upon being requested to do so by the person holding the inquiry, furnish such information within his knowledge with regard to the affairs of the corporation and produce such books of accounts or documents in his custody as that person may require.

32. The corporation shall be liable to pay tax on its income or profits.

33. The Minister may by Order published in the Gazette approve of the proposed acquisition of any land, or any interest in any land, other than State land, for any purpose of the corporation, and where such an Order is so published, the land or the interest in any land specified in the Order shall be deemed to be required for a public purpose and may be acquired under the Land Acquisition Act, and, when so acquired, shall be transferred to the corporation under the State Lands Ordinance.

34. (1) The Minister may by regulation made under this Act provide for the application to the corporation, with or without any modification, of any provision of the Companies Ordinance.*

(2) The provisions of the Companies Ordinance,* other than the provisions of that Ordinance which are made applicable

Directions by, and inquiries at the instance of, the Minister.

Payment of tax on Income or profits of the corporation.

Compulsory acquisition of any land or an interest in any land for the corporation.

Application of company law to the corporation.

Document 1.10
to be sent to the
Minister and
laid before
Parliament

* Repealed and replaced by the Companies Act, No. 17 of 1982.

to the corporation by regulations made under this Act, shall not apply to the corporation.

Staff.

35. The board of directors shall, subject to the provisions of sections 14 and 26, have power to appoint such officers and servants as may be necessary for the purposes of the corporation, and to exercise disciplinary control over and dismiss any officer or servant of the corporation :

Provided that the board of directors shall not, without the approval of the Minister, dismiss any such officer or servant of the corporation as was appointed to the staff of the corporation in accordance with the provisions of section 26.

Pension scheme, &c. for staff.

36. The board of directors may establish and regulate a pension scheme or provident fund for the payment of pensions, gratuities or retiring allowances to members of the staff of the corporation and a widows' and orphans' pension fund or scheme for providing pensions to the widows and orphans of deceased members of the staff, and may require contributions to be made to any such scheme or fund by members of the staff of the corporation and may deduct such contributions from the salaries or wages of such members and may make contributions to any such scheme or fund from the revenues of the corporation.

Validity of acts and proceedings of the board of directors.

37. No act or proceeding of the board of directors shall be invalidated by reason only of the existence of any vacancy among its members or any defect in the appointment of a memeber thereof.

38. (I) The Minister who for the time being is in charge of the subject of State lands may, by Order published in the Gazette, exempt the corporation from any such provision of any of the following Ordinances as may be specified in the Order:—

Power to exempt the corporation from the provisions of certain Ordinances.

- State Lands Encroachments Ordinance,
- State Lands Ordinance;
- Definition of Boundaries Ordinance;
- Fauna and Flora Protection Ordinance;
- Forest Ordinance;
- Land Development Ordinance.

(2) An Order made and published under subsection (I) shall have the force of law.

39. (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 all matters for which regulations are authorized or required by this Act to be made.

Regulations-

(2) No regulation made by the Minister under subsection (1) shall take effect unless it is approved by Parliament and is published in the Gazette together with a notice of such approval.

40. In this Act, unless the context otherwise requires—

Interpretation.

" board of directors " means the board of directors of the corporation ; and

" director " means a member of the board of directors.

CHAPTER 108

STATE (LIABILITY IN DELICT)

Act
No. 22 of 1969.

AN ACT TO AMEND THE LAW RELATING TO THE CIVIL LIABILITIES AND RIGHTS OF THE STATE, AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

[2nd December. 1969.]

Short title.

1. This Act may be cited as the State (Liability In Delict) Act..

liabilities of the State in respect of the delict shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the State.

PART I

SUBSTANTIVE LAW

Liability of the
State in delict.

2. (1) Subject to the provisions of this Act, the State shall be subject to all those liabilities in delict to which, if it were a private person of full age and capacity, it would be subject in respect of delicts committed by its officers or agents:

(4) Any written law which negatives or limits the amount of the liability of any officer of the State in respect of any delict committed by that officer shall, in case of proceedings against the State under this section in respect of a delict committed by that officer, apply in relation to the State as it would have applied in relation to that officer if the proceedings against the State had been proceedings against that officer.

Provided that no proceedings shall lie against the State by virtue of the preceding provisions of this subsection in respect of any act or omission of an officer or agent of the State, unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in delict against that officer or agent or his estate.

(5) No proceedings shall lie against the State by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial or quasi-Judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process, or any responsibilities vested in him in his capacity as a member or delegate of the Public Service Commission or the Judicial Service Commission.

(2) Where the State is bound by a statutory duty which is binding also upon persons other than the State and its officers, then, subject to the provisions of this Act, the State shall, in respect of a failure to comply with that duty, be subject to all those liabilities in delict (if any) to which it would be subject if it were a private person of full age and capacity.

3. (1) Where after the coming into operation of this Act any officer or aent of the State infringes a patent, or infringes a registered trade mark, or infringes any copyright and the infringement is committed with the authority of the State then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the State. Provisions as to industrial property.

(3) Where any functions are conferred or imposed upon an officer of the State as such by or under any written law, and that officer commits a delict while performing or purporting to perform those functions, the

* (3) Save as expressly provided by this section, no proceedings shall lie against the State by virtue of this Act in respect of the infringement of a registered trade mark, or in respect of the infringement of any such copyright as is mentioned in subsection (1) of this section.

4. (1) Where the State is subject to any liability by virtue of this Part of this Act, the law relating to indemnity and contribution shall be enforceable by or against the State in respect of the liability to which it is so subject as if the State were a private person of full age and capacity.

(2) Without prejudice to the effect of the preceding subsection, the Law Reform (Contributory Negligence and Joint Wrongdoers) Act shall bind the State.

5. (1) Subject to the provisions of the Post Office Ordinance and the Telecommunications Ordinance, no proceedings in delict shall lie against the State for anything done or omitted to be done in relation to a postal article by any person while employed as an officer or agent of the State, or for anything done or omitted to be done in relation to a telephonic message of the State whilst so employed, nor shall any officer of the State be subject, except at the suit of the State, to any civil liability for any of the matters aforesaid.

(2) In this section, the terms "postal article" and "message" shall have the same meanings as in the Post Office Ordinance and the Telecommunications Ordinance, respectively.

6. (1) Nothing done or omitted to be done by a member of the Armed Forces of the State while on duty as such shall subject either him or the State to liability in delict for causing the death of another person or causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the Armed Forces of the State if —

(a) at the time when that thing is suffered by that other person, he is either on duty as a member of the Armed Forces of the State or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the Armed Forces of the State; and

(b) the Minister in charge of the subject of Defence certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award from the State :

Provided, however, that this subsection shall not exempt a member of the said Forces from liability in delict in any case in which the court is satisfied that the act or omission was not connected with the execution of his duties as a member of those Forces.

(2) No proceedings in delict shall lie against the State for death or personal injury due to anything suffered by a member of the Armed Forces of the State, if —

(a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those Forces ; and

(b) the Minister in charge of the subject of Defence certifies as mentioned in the preceding subsection.

(3) No act or omission of an officer of the State shall subject him to liability in delict for death or personal injury in so far as the death or personal injury is due to anything suffered by a member of the Armed Forces of the State, being a thing as to which the conditions aforesaid are satisfied.

(4) The Minister in charge of the subject of Defence, if satisfied that it is the fact —

* Subsection (2) is omitted as the Patents Ordinance, to which this subsection refers, has been repealed by Act No. 52 of 1979.

Application of law as to indemnity contribution, joint and several wrongdoers and contributory negligence.

Liability in connexion with postal articles.

Provisions relating to Armed Forces.

(a) that a person was or was not on any particular occasion on duty as a member of the Armed Forces of the State; or

(b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was, or was not, or were or were not, used for the purposes of the said forces,

may issue a certificate certifying that to be the fact; and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

ship, aircraft, cargo or other property did not belong to the State, order that the proceedings shall be treated as if they were *in personam* duly instituted against the State or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

Any such order may be made upon such terms, if any, as the court thinks just; and where the court makes any such order it may make such consequential orders as the court thinks expedient.

Saving in respect of acts done under powers conferred on the State by written law.

* 7. (1) Nothing in this Part of this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of any powers or authorities conferred on the State or any of its officers by any written law, and, in particular, nothing in this Part of this Act shall extinguish or abridge any powers or authorities exercisable by the State or any of its officers, whether in time of peace or war, for the purposes of the defence of Sri Lanka, or of the exercise of emergency powers, or of training, or maintaining the efficiency of, any of the Armed Forces of the State.

9. (1) Subject to the provisions of subsection (2), this Act shall not prejudice the right of the State to take advantage of the provisions of any written law although not named therein ; and it is hereby declared that in any civil proceedings against the State the provisions of any written law which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the State.

Application to the State of certain provisions of written law.

(2) No court shall refuse to entertain any action brought by virtue of this Act on the ground that the provisions of section 461 of the Civil Procedure Code have not been complied with-

PART II

MISCELLANEOUS AND SUPPLEMENTAL

Exclusion of proceedings *in rem* against the State.

8. (1) Nothing in this Act shall authorize proceedings *in rem* in respect of any claim against the State, or the arrest, detention or sale of any ship, aircraft, cargo or other property belonging to the State, or give to any person any lien on any such ship, aircraft, cargo or other property.

(3) Where the provisions of section A1 of the Civil Procedure Code have not been complied with in respect of an action brought by virtue of this Act, the court shall direct the plaintiff to comply with such directions as the court may deem necessary to make good the omission and shall refuse to entertain the action if the plaintiff fails to comply with such directions.

(2) Where proceedings *in rem* have been instituted in any court against any such ship, aircraft, cargo or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or an application by the State to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the

10. Save as otherwise expressly provided, the provisions of this Act shall not affect proceedings by or against the State which have been instituted before the coming into operation of this Act.

Pending proceedings.

11. (1) Nothing in this Act shall apply to proceedings in delict brought by the President in his private capacity.

Savings.

* Subsection (2) is omitted as the prerogative of the Crown to which it refers no longer exists.

* (2) Except as otherwise expressly provided, nothing in this Act shall —

(a) affect any rules of evidence or any presumption relating to the extent to which the State is bound by any written law; or

(6) affect any right of the State to control or otherwise intervene in proceedings affecting its rights, property or profits.

Regulations.

12. (1) The Minister may make regulations under this Act for such purpose or purposes as may be necessary to give full force and 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 for or in respect of all or any of the following matters:—

(a) the determination or adjustment of any question or matter relating to the State, or to proceedings by or against the State, or matters connected therewith or incidental thereto for the determination or adjustment of which no provision, or adequate or effective provision, is made by this Act;

(b) the removal or adjustment of any conflict or inconsistency between the provisions of this Act and any other written law;

(c) the removal or adjustment of any difficulties which may arise in first giving effect to the provisions of this Act in relation to the State, or to proceedings by or against the State;

(d) all matters connected with or incidental to the matters aforesaid.

(3) Any regulation made under this Act may be of general application, or may be limited in its application to any specified purpose or purposes.

(4) No regulation made by the Minister under this Act shall have effect until it is approved by Parliament, nor until notification of such approval is published in the Gazette.

(5) Every regulation made by the Minister under this Act shall, upon the publication in the Gazette of a notification of the approval of that regulation as provided in subsection (4), be deemed to be as valid and effectual as though it were herein enacted.

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

" agent ", in relation to the State does not include an independent contractor employed by the State ;

" Armed Forces of the State " means the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force;

" officer ", in relation to the State means any person who holds a paid office in the service of the State in respect of the Government of the Republic of Sri Lanka, and includes a Minister of the State;

" proceedings against the State " includes a claim by way of set-off or counter-claim raised in proceedings by the State;

" statutory duty " means any duty imposed by or under any written law.

* Subsection (3) is omitted as the references to Her Majesty's Government in Ceylon and the Crown therein has no meaning under the Constitution of the Democratic Socialist Republic of Sri Lanka.

CHAPTER 422

SAMBUDDHA JAYANTHI CHAITYA TRUST

Act No. 19 of 1980. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A TRUST CALLED THE SAMBUDDHA JAYANTHI CHAITYA TRUST, TO SPECIFY ITS OBJECTS AND POWERS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[18th April. 1980.]

Short title. **1.** This Act may be cited as the Sambuddha Jayanthi Chaitya Trust Act. nominated by the governing body of that Mandalaya with the concurrence of the Minister. Each member appointed under this paragraph shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment.

Establishment of the Sambuddha Jayanthi Chaitya Trust. **2.** (1) There shall be established a Trust which shall be called the Sambuddha Jayanthi Chaitya Trust (hereinafter referred to as " the Trust "). (2) The Trust 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. (2) The Minister shall appoint one of the members of the Board to be Chairman of the Board.

Constitution of the Board of Trustees and meetings. **3.** (1) The Trust shall be administered by a Board of Trustees (hereinafter referred to as " the Board ") which shall consist of the following members appointed by the Minister:— (3) The Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings. (4) The Board may act notwithstanding a vacancy amongst its members.

(a) an officer of the Ministry of the Minister; **4.** The seal of the Trust— Seal of the Trust.

(b) the Chairman of the Sri Lanka Ports Authority; (a) shall be in the custody of such persons as the Board may from time to time determine;

(c) an officer of the Ministry of the Minister in charge of the subject of Cultural Affairs, nominated by that Minister; (b) may be altered in such manner as may be determined by the Board ; and

(d) an officer of the General Treasury, nominated by the Secretary to the Treasury; (c) shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of two members of the Board who shall sign the instrument or document in token of their presence.

(e) an officer of the Department of the Public Trustee, nominated by the Public Trustee; and **5.** The objects of the Trust shall be— The objects of the Trust.

(f) two representatives of the Varaya Baudha Bala Mandalaya, (a) to complete the construction of the Sambuddha Jayanthi Chaitya;

(b) to maintain and keep in repair the said Chaitya;

(c) to promote Buddhist cultural and educational activities.

Powers, duties and functions of the Trust.

6. (1) The Board shall, in the name of the Trust, have the power to do all things as are necessary for, or conducive or incidental to, the carrying out of the objects of the Trust.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board may exercise and discharge the following powers and functions :—

(a) to raise funds or receive grants, gifts or donations in cash or kind, whether from local or foreign sources;

(b) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;

(c) to enter into or perform, either directly or through officers and servants or agents authorized in writing in that behalf by the Board, all such contracts and agreements as may be necessary for the exercise, discharge and performance of the powers, functions and duties, and in carrying out the objects of the Trust;

(d) to appoint, employ and remunerate officers and servants of the Trust and to make rules regarding the appointment, promotion, remuneration and disciplinary control of the employees and the grant of leave and other benefits to them;

(e) to invest funds belonging to the Trust in any such investments as are authorized by law for the investment of trust money and to recall, reinvest and vary such investments and to collect income accruing from such investments ;

(f) to make rules in relation to all matters connected with the working of the Trust; and

(g) to do such other acts and things as the Board may consider necessary or conducive for the attainment of the objects of the Trust.

7. (1) There shall be established a Fund called the Sambuddha Jayanthi Chaitya Fund (hereafter in this Act referred to as the " Fund ").

Establishment of Sambuddha Jayanthi Chaitya Fund.

(2) The Board shall have the power to manage, control and operate the Fund.

(3) The Government may donate to the Trust from time to time grants for the purpose of carrying out the aims and objects of the Trust.

8. With effect from the date of commencement of this Act—

Transfer of certain moneys to the Fund.

(a) the sum of Rs. 300,000 allotted to Project 102: Construction and Improvements—Object Code 13—Construction of Buddha Jayanthi out of the amount specified in item " Head 45—Colombo Port Commission, Programme 2: Port Facilities (Colombo Port)" in the First Schedule to the Appropriation Act, No. 18 of 1978, shall be deemed to form part of the Fund and any payment heretofore made out of the said sum of Rs. 300,000 shall be deemed to be payment made out of the Fund ; and

(b) the moneys collected for the purpose of constructing the Sambuddha Jayanthi Chaitya and lying with the Varaya Sambuddha Jayanthi Chaitya Fund and the Varaya Bauddha Bala Mandalaya shall be transferred to the Fund.

9. There shall be paid into the Fund—

Payments into the Fund.

(a) any funds raised, or grants, gifts or donation received, or moneys realized or collected, under section 6 (2);

(b) any grant received from the Government under section 7 ; and

(c) any income from investments or other receipts due to the Trust.

Payments out of the Fund.

10. There shall be paid out of the Fund—

- (a) expenses necessary for the working, establishment and maintenance of the Trust;
- (b) the cost of the completion of the construction, maintenance, additions, alterations or improvements to the Chaitya;
- (c) the payment of salaries to officers, servants and other employees ; and
- (d) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Trust.

Accounts and audit.

11. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Trust.

(2) The Auditor-General shall audit the accounts of the Trust every year.

(3) Notwithstanding the provisions of subsection (2), 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 Trust. 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 Trust and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(4) (a) The Auditor-General may for the purpose of assisting him in the audit of the accounts of the Trust, 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 Trust, he may engage the services of—

- (i) a person not being an employee of the Trust; 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 Trust,

and such person or institution shall act under his direction and control.

(5) (a) The Auditor-General or any person authorized by him shall in the audit of the accounts of the Trust be entitled—

- (i) to have access to all books, records, returns and other documents of the Trust;
- (ii) to have access to stores and other property of the Trust; and
- (iii) to be furnished by the Board or the officers of the Trust with such information and explanations as may be necessary for the performance in the audit of the accounts of the Trust.

(b) Every qualified auditor appointed to audit the accounts of the Trust or any person authorized by such auditor shall be entitled to have like access, information and explanations in relation to the Trust.

(6) The Auditor-General shall examine the accounts of the Trust and furnish a report to the Board.

(7) Every qualified auditor appointed under the provisions of subsection (3) shall submit his report to the Minister and also submit a copy thereof to the Auditor-General.

(8) The Board shall annually prepare a report of the work of the Trust and a report of the finances during the year completed, which shall together with the report of the qualified auditor, be tabled in Parliament and be published in the Gazette for general information before the lapse of the year succeeding the year to which such report of the finances relate.

Financial year of the Trust.

12. The financial year of the Trust shall be the calendar year.

Protection of members of the Board and officers, &c., of the Trust for action under this Act.

13. (1) No suit or prosecution shall be instituted against any member of the Board or against any officer, servant or agent of the Trust appointed for the purposes of this Act for any act which is in good faith done or purported to be done by such person under this Act or on the direction of the Board.

(2) Any expense incurred by the Trust in any suit or prosecution brought by or against the Trust before any court shall be paid out of the funds of the Trust and any costs paid to, or recovered by, the Trust in any such suit or prosecution shall be credited to the funds of the Trust.

(3) Any expense incurred by any 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 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 Trust unless such expense is recovered by him in such suit or prosecution.

14. No writ against person or property shall be issued against any member of the Board or any officer or servant of the Trust in any action brought against the Trust.

No writ to issue against person or property of a member of the Trust.

15. All officers and servants of the Trust shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Trust deemed to be public servants under the Penal Code.

16. The Trust shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall accordingly apply.

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

CHAPTER 291

STATE LANDMARKS

Ordinance No. 7 of 1909.

AN ORDINANCE TO PROVIDE FOR THE ERECTION AND MAINTENANCE OF PERMANENT LANDMARKS TO DEFINE THE BOUNDARIES OF LAND ALIENATED BY THE STATE.

[1 st January, 1910.]

Short title.

1. This Ordinance may be cited as the State Landmarks Ordinance.

Government Agent may call upon any one or more of the co-proprietors to replace or repair the State landmarks or to define the boundary line as aforesaid; and any such co-proprietor, on producing a certificate from the Government Agent that such work has been performed to his satisfaction, may recover from his co-proprietors their proportionate share in the expense set incurred.

Interpretation.

2. In this Ordinance, unless the context otherwise requires, the expression " Government Agent " includes an Assistant Government Agent.

Erection of State landmarks.

3. Whenever, after the commencement of this Ordinance any land is sold, leased, or alienated by the State or is admitted or declared by any order passed under Ordinance No. 1 of 1897* or the Land Settlement Ordinance to be the property of any claimant, the Minister may cause the boundaries of such land to be defined by permanent marks, in this Ordinance referred to as " State landmarks ", of such material and size as the Minister may from time to time prescribe by order in the Gazette.

6. (1) Notice in writing of every requisition to replace or to repair State landmarks or to define the boundary line shall be served in the manner prescribed by section 14 of this Ordinance, on the owner or occupier of the land requiring him to perform such work within such time as the Government Agent may think reasonable.

Service of notice.

Duty of owner to keep State landmarks in repair.

4. It shall be the duty of the owner or the person for the time being in possession or occupation of any land, the boundaries of which have been defined by State landmarks, to keep such landmarks in good repair, and also to define the boundary line connecting the several landmarks by keeping the same clear of vegetation.

(2) Where a State landmark serves, or is intended to serve, as a boundary between two or more adjoining lands, the owners of which would both or all be liable to set up or repair the landmark, the requisition shall be served on the owner or occupier of each such land. Where one only of such owners has complied with the requisition, he may recover from the other owner or owners the proportionate share of the expense which he has incurred in complying with the requisition.

Landmarks for adjoining lots.

Where owner fails to keep State landmarks in repair.

5. (1) Whenever it appears that any State landmark has been removed, or is out of repair, or that the owner or occupier has failed to define or keep defined the boundary line between the landmarks, the Government Agent may call upon the owner or occupier to replace or repair such State landmark or to define the boundary line.

7. (1) The Government Agent shall, when State landmarks have been replaced or repaired or the boundary line has been defined to his satisfaction within the time prescribed in the notice, or within such further time as the Government Agent shall allow, grant a certificate to that effect to the owner or occupier.

Certificate.

(2) Where any land is held by several persons in undivided shares, the

* Repealed by Ordinance No. 20 of 1931.

(2) Upon a report of the Surveyor-General or of a licensed surveyor authorized by the Surveyor-General to inspect State landmarks to the effect that any State landmarks have been properly repaired or replaced, or that any boundary line has been properly defined, the Government Agent may grant a certificate that such work has been done to his satisfaction.

Procedure where order is not complied with.

8. If after service of notice the required work is not completed within the time prescribed in the notice, it shall be lawful for the Surveyor-General on the requisition of the Government Agent to cause such work to be done, and the cost incurred thereby, and such additional sum as the Minister with the concurrence of the Minister in charge of the subject of Finance shall from time to time by rule prescribe, shall be chargeable and recoverable as hereinafter provided.

Parties may request Government Agent to set up or repair the landmarks.

9. The person on whom a notice to replace or repair State landmarks or to define boundaries is served may request the Government Agent to cause such landmarks to be set up or repaired, and the Government Agent may require the Surveyor-General to have such landmarks set up or repaired, and the cost shall be certified and recovered as hereinafter provided.

Procedure in ease of dispute.

10. If any dispute shall arise as to the position in which any State landmark shall be placed, the same shall be settled by the Surveyor-General, who may direct the land to be resurveyed. The expense of any such survey shall be borne by the landowner, and shall be recovered in manner provided by section 12.

Certificate of expense.

11. The cost of setting up or repairing State landmarks under sections 8 and 9, and the cost of survey (if necessary) for ascertaining the true position of any boundary, shall be certified in writing by the Government Agent under his hand, and such certificate shall be held to be conclusive proof of the amount paid, and that everything necessary to be done under this Ordinance up to the time of making such certificate for the purpose of requiring

the landmarks to be set up or repaired has been done as required by this Ordinance.

12. In the event of any person charged with the expense incurred by the Surveyor-General in setting up or repairing State landmarks under this Ordinance, and the expense of surveys if any, refusing or neglecting to pay the expense so incurred, a summons shall be served upon such person requiring him to show cause before a Magistrate why the said cost or proportion of cost (stating the amount) should not be paid by him, and if he fail to show such cause, or if he fail to appear, the Magistrate on proof of service of the summons and on reading the Government Agent's certificate issued under section 11 may make an order for payment of the amount.

Summons to show cause.

13. The amount ordered to be paid under section 12 may be recovered in the manner provided by law for the recovery of fines imposed by Magistrates, although exceeding the amount that is within their ordinary jurisdiction, and when so recovered shall be paid to the Government Agent.

How recoverable.

14. Notices under this Ordinance may be served personally on the owner or occupier or by having the same affixed in a conspicuous manner on the land to which the notice refers.

Service of notices.

15. Any person who, except in any case where a State landmark is by this Ordinance required or allowed to be set up, sets up or causes or allows to be set up on property belonging to him or under his control or management any boundary mark resembling the State landmarks prescribed for the purpose of this Ordinance, intending or knowing it likely that such boundary mark will be taken for a State landmark, shall be guilty of an offence under this Ordinance, and shall be liable on conviction to a fine which may extend to five hundred rupees, and to simple or rigorous imprisonment for a term not exceeding six months.

Penalty for setting up counterfeit State landmarks.

16. No person other than an officer in the civil or military service of the State or a person authorized by such officer, shall engrave on or affix to any rock, stone, tree, or other object the Government broad arrow mark or any limitation thereof. Any

Penalty for misuse of Government broad arrow mark.

STATE LANDMARKS

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person acting in contravention of this section shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to one hundred rupees,

17. No suit, action, or legal proceedings shall lie against any person for anything done in good faith, or intended to be so done, under this Ordinance. Protection to persons acting under the Ordinance.

CHAPTER 294

STATE LAND (CLAIMS)

Ordinance No. 21 of 1931.

AN ORDINANCE TO PROVIDE FOR THE CONSIDERATION AND DECISION OF APPLICATIONS IN RESPECT OF CLAIMS TO LANDS AT THE DISPOSAL OF THE STATE.

[1 st July. 1931.]

Short title.

1. This Ordinance may be cited as the State Land (Claims) Ordinance.

from the day on which the order was communicated to him, apply to the board established by section 11 of the Lane Settlement Ordinance, (hereinafter referred to as "the board"), to revise the order. Such application shall be made by petitioner addressed to the board and delivered to the Settlement Officer, who shall forward the petition to the chairman of the board.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

" claim " means any claim made otherwise than under the Land Settlement Ordinance, to land which may lawfully be granted or disposed of by the State, and " claimant " means any person making a claim;

" interest ", in relation to any land, means an interest less than the full ownership of the land ;

" Settlement Officer " means the Settlement Officer and any Assistant Settlement Officer appointed under the Land Settlement Ordinance, and any Government Agent or Assistant Government Agent;

" share ", in relation to any land, means an undivided share of the land.

4. (1) Stamp duty shall be chargeable in respect of petitions addressed to the board under section 3 at the rates specified in the Schedule.

Stamp duty on petitions.

(2) Every claimant to land or to a share of land who makes an application to the board under section 3 shall declare in his petition the aggregate extent of land or of the share of land in respect of which the application is made; and stamp duty shall be chargeable in respect of such petition in accordance with the extent so declared.

(3) For the purposes of subsection (2) the extent of a share of land shall be deemed to be the equivalent divided extent of land.

(4) It shall be lawful for the board, if it thinks proper to do so, to waive the stamp duty chargeable in respect of any petition or to accept, upon such terms and conditions as it thinks fit, any petition which has not been duly stamped or to order that the whole or any part of the stamp duty paid in respect of any petition be refunded.

Application to the board established by the Land Settlement Ordinance, for the revision of orders.

3. (1) Where the Settlement Officer, in pursuance of the authority of the President, investigates any claim and makes an order in relation thereto, he shall communicate such order to the claimant in writing.

(2) Any offer made under this section shall be assessed in accordance with the rules in force for the time being under section 6 of the Land Settlement Ordinance.

(3) Any claimant who is dissatisfied with any such order made by the Settlement Officer may, within a period of one month

5. (1) The board may, after considering any application made under section 3 and after holding or making or ordering to be held or made any inquiry or

Powers of the board and procedure in respect of applications.

inspection that it may think fit, confirm or revise any order made by the Settlement Officer in respect of the claim to which such application relates.

(2) The provisions of any rules made under section 11 (2) (a) of the Land Settlement Ordinance, so far as such rules are applicable, and the provisions of sections 11 (2) (c), 11 (4), 27 and 28 of the said Ordinance, shall apply to the holding or making of any inquiry or inspection by or by order of the board under this section and to the consideration and decision of every application made to the board under section 3 of this Ordinance, as though references to the Land Settlement Ordinance, in the said rules and sections were references to this Ordinance.

6. The chairman of the board shall inform the Settlement Officer of the decision of the board in respect of every such application, and the Settlement Officer shall thereupon communicate such decision to the claimant by writing under his hand; and if upon such decision being communicated to him the claimant signifies to the Settlement Officer that he accepts such decision, the Settlement Officer shall take such steps to give effect thereto as may be necessary.

7. No order made by the Settlement Officer under this Ordinance, and no decision or proceedings of the board in relation thereto, shall be considered or adjudicated upon by any court; but the court shall make order according to law as if no such order or decision had been made and no such proceedings taken.

Effect to be given to decision of the board, if accepted.

Orders of Settlement Officer and decisions of the board not to be considered by courts.

[Section 4 (1).]

SCHEDULE

STATE LAND (CLAIMS) ORDINANCE

RATES OF STAMP DUTY CHARGEABLE IN RESPECT OF PETITIONS

1. If the claim is to the full ownership of any land or of any share of any land and the aggregate extent of land or of the share of land declared in the petition—

	Rs.c.
Does not exceed 2 acres	1 0
Exceeds 2 acres, but does not exceed 5 acres	1 50
Exceeds 5 do. 10 acres	3 50
Exceeds 10 do. 20 acres	6 0
Exceeds 20 do. 40 acres	12 00
Exceeds 40 do. 60 acres	25 0
Exceeds 60 do. 80 acres	50 0
Exceeds 80 do. 100 acres	75 0
Exceeds 100 acres	100 0

2. If the claim is to an interest

**SRI LANKA ASSOCIATION FOR THE
ADVANCEMENT OF SCIENCE**

CHAPTER 496

**SRI LANKA ASSOCIATION FOR THE
ADVANCEMENT OF SCIENCE**

Act No. 11 of 1966. AN ACT TO INCORPORATE THE SRI LANKA ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE.

[25th April, 1966.]

- Short title. **1.** This Act may be cited as the Sri Lanka Association for the Advancement of Science Act.
- Incorporation of the Ceylon Association for the Advancement of Science. **2.** From and after the passing of this Act all persons as now are members of the Ceylon Association for the Advancement of Science 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 Sri Lanka Association for the Advancement of Science"*, 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) to promote the advancement of science (Pure and Applied);
 - (b) to provide for systematic direction of scientific inquiry in the interests of the country;
 - (c) to promote contact among scientific workers;
 - (d) to hold an Annual Session;
 - (e) to disseminate scientific knowledge; and
 - (f) to do such other things as may be necessary for the advancement of science.
- 4.** The governing body of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be the General Committee consisting of such members with such qualifications and exercising such powers as the said rules shall direct. The first General Committee of the corporation shall be the General Committee of the Ceylon Association for the Advancement of Science for the time being.
- 5.** The affairs of the corporation shall be administered by an executive body called the Council, elected by the General Committee in accordance with the rules of the corporation and it shall consist of such number of members with such qualifications exercising such powers and for such periods as the said rules shall direct. The first Council of the corporation shall be the Council of the Ceylon Association for the Advancement of Science for the time being consisting of Dr. D. V. W. Abeygunawardena, Dr. V. Appapillai, Dr. B. A. Baptist, Dr. N. G. Baptist, Prof. G. H. Cooray, Prof. C. C. de Silva, Mr. E. B. Dissanaiké, Mr. T. Gunawardhana, Mr. V. E. Herat, Dr. S. R. Kottegoda, Mr. A. S. Mendis, Miss C. L. M. Nethsinghe, Mr. D. B. Pattiarachchi, Dr. G. Ponnampereuma, Dr. W. D. Ratnavale, Mr. S. Selvaratnam, Dr. S. Sentheshanmuganathan, Dr. W. M. Tilakaratne, Mr. N. A. D. Weerasinha and Dr. T. W. Wikramanayake.
- 6.** All debts and liabilities of the said Ceylon Association for the Advancement of Science existing at the time of the coming into operation of this Act shall be paid by

The General Committee.

The Council.

Debts due by and payable to corporation.

*The title of the Corporation was altered from "The Ceylon Association for the Advancement of Science" to "The Sri Lanka Association for the Advancement of Science" by a resolution of the General Committee of the Corporation held on 19th December, 1974.

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ADVANCEMENT OF SCIENCE**

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the corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the said Ceylon Association for the Advancement of Science shall be paid to the said corporation for the purposes of this Act.

officers, agents and servants of the corporation; for the procedure in the transaction of business and otherwise generally for the management of affairs of the corporation and the accomplishment of its objects. Subject to the provisions of section 11, such rules may at such meeting be amended, added to or repealed.

How the seal of the corporation is to be affixed.

7. The seal of the corporation shall be in the safe custody of the Council and shall not be affixed to any instrument whatsoever except with the authority of the Council previously obtained and in the presence of two 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.

10. Subject to the provisions of section 9, the rules set out in the Schedule* to this Act shall for all purposes be the rules of the corporation:

Rules in the Schedule to be the rules of the corporation.

Corporation may hold property, movable and immovable.

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 Act and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules or from altering, amending, adding to or rescinding any of the rules set out in the Schedule* or which may hereafter be made by the corporation.

Power to make rules.

9. It shall be lawful for the corporation, from time to time, at any meeting of the General Committee, and by a vote of two-thirds of the members present and voting to make rules for admission, withdrawal or expulsion of members; for the conduct of the duties of the Council and of the various

11. No rule in the Schedule* to this Act nor any rule which may hereafter be passed at a meeting shall be altered, added to, amended or rescinded, except by a vote of two-thirds of the members present and voting at a meeting of the General Committee of the corporation.

Amendment, &c, of rules.

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.

Savings of the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 365

SRI LANKA BROADCASTING CORPORATION

Act
No. 37 of 1966,
Laws
Nos. 5 of 1974,
11 of 1977.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION KNOWN AS THE SRI LANKA BROADCASTING CORPORATION FOR THE PURPOSE OF CARRYING ON THE SERVICE OF BROADCASTING IN SRI LANKA AND FOR DEVELOPING, EXTENDING AND IMPROVING THAT SERVICE; FOR THE ISSUE OF LICENCES BY THE MINISTER TO OTHER PERSONS FOR THE ESTABLISHMENT OF PRIVATE BROADCASTING STATIONS WHERE IT IS NECESSARY SO TO DO; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[5th January, 1967.]

Short title.

1. This Act may be cited as the Sri Lanka Broadcasting Corporation Act.

(d) to exercise and perform such powers and duties in relation to broadcasting as are conferred or imposed on it by or under this Act.

PART I

THE SRI LANKA BROADCASTING CORPORATION

Establishment of the Sri Lanka Broadcasting Corporation.

2. (1) There shall be established a Corporation, which shall be called the Sri Lanka Broadcasting Corporation (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 6.

(2) For the exercise of its functions under paragraph (b) of subsection (1), it shall be the duty of the Corporation to satisfy itself that, as far as practicable, the programmes broadcast by the Corporation comply with the following requirements :—

(a) that nothing is included in any such programme which offends against good taste or decency or is likely to incite to crime or to lead to disorder or to offend any racial or religious susceptibilities or to be offensive to public feelings;

(b) that the programmes maintain a proper balance in their subject-matter and a high general standard of quality; and

(c) that any news given in the programmes (in whatever form) is presented with due accuracy and impartiality and with due regard to the public interest.

Functions of the Corporation.

3. (1) The functions of the Corporation shall be—

(a) to carry on a broadcasting service within Sri Lanka and from time to time develop, extend, and improve that service in the public interest;

(b) to exercise supervision and control over programmes broadcast by the Corporation;

(c) to advise the Minister in respect of matters relating to broadcasting; and

4. The Corporation shall have such powers, rights and authorities as may reasonably be necessary or expedient to carry out its functions, and in particular it may—

(a) establish, instal, and operate broadcasting stations;

- (b) acquire by purchase, lease, sublease, or otherwise any land or interest in land, with or without any building; programmes for broadcasting, whether in conjunction with any other business or not;
 - (c) erect, alter, or reconstruct any broadcasting station, or any building or structure for use in connexion with any broadcasting station, or in connexion with the exercise of its powers, on any land belonging to or administered by the Corporation; (i) use the facilities and equipment of the broadcasting service in such manner as may be thought fit for the purpose of promoting and assisting in the development and carrying on of those arts and cultural pursuits which are usually included in the purpose of broadcasting;
 - (d) with the prior approval of the Minister, dispose of by sale, lease, sublease, or otherwise any land or interest in land; (j) take on lease, rent, or purchase houses, or purchase sites and erect houses, for the use of its officers;
 - (e) acquire by purchase or otherwise, any property, rights or privileges that it considers necessary for the purposes of this Act; (k) publish or arrange for the publication of such periodicals or other publications as it may consider of benefit to any broadcasting service carried on by the Corporation;
 - (f) dispose of by sale or otherwise, or turn to account or otherwise deal with, any movable property, rights, or privileges of the Corporation; (l) do all such things as the Corporation considers to be in the interests of the community for the purpose of developing and improving broadcasting talent; and
 - (g) with the prior approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance, and subject to such terms and conditions as may be approved, advance money to any person or body of persons, whether incorporated or not, carrying on or intending to carry on the business of producing programmes for broadcasting, whether in conjunction with any other business or not, or give in respect of any advances made to any such person or body as aforesaid by any other person any guarantee, indemnity, or security; (m) act in combination or association with any person or body of persons, whether incorporated or not and whether in Sri Lanka or elsewhere, for any of the aforesaid purposes.
5. In the exercise of its functions and powers under this Act, the Corporation shall comply with the general policy of the Government with respect to broadcasting and shall comply with any general or special directions given by the Minister pursuant to the policy of the Government in relation thereto. Corporation to comply with Government policy.
6. (1) The Corporation shall consist of five members appointed by the Minister, one of whom shall be designated the Chairman of the Corporation. Constitution of the Corporation.
- (2) A person shall be disqualified for being appointed, or for continuing, as a member of the Corporation—
- (a) if he is or becomes a Member of Parliament ; or

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(b) if he is or becomes the owner, a partner, a director, a major shareholder or an employee of or in any business which has a business transaction with the Corporation.

Term of office of the members of the Corporation.

7. Every member of the Corporation shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of four years.

Power of the Minister to remove from office a member of the Corporation.

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

(2) A member of the Corporation 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.

Resignation of members.

9. A member of the Corporation may at any time resign his office by letter addressed to the Minister.

Casual vacancies among members.

10. (1) If a member of the Corporation dies or resigns or is removed from office, the Minister may appoint any other person to be a member in place of the member who dies or resigns or is removed from office.

(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.

Eligibility of members for reappointment.

11. Any member of the Corporation who vacates office, other than a member who is removed from office under section 8, shall be eligible for reappointment.

Acts or proceedings of the Corporation deemed not to be invalid by reason of any vacancy, or defect in the appointment, of a member.

12. No act or proceeding of the Corporation 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.

Application of the seal of the Corporation.

13. (1) The seal of the Corporation shall be in the custody of the Corporation.

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

(3) The application of the seal of the Corporation shall be authenticated by the signature of the Chairman of the Corporation or some other member of the Corporation authorized by the Corporation to authenticate the application of the seal and of the officer of the Corporation who is designated the Director-General of the Corporation or some other officer of the Corporation authorized by name by the Corporation to act in his stead in that behalf.

14. The members of the Corporation 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. Remuneration.

15. 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. Meetings of the Corporation.

16. Where a member of the Corporation is by reason of illness, infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place. Temporary appointments of members of the Corporation.

17. (1) The Corporation may delegate in writing to the Director-General such of its powers as the Corporation thinks fit: Delegation of powers of the Corporation.

Provided that no such delegation shall prevent the exercise by the Corporation of any power so delegated.

(2) Any delegation made under subsection (1) may be subject to such conditions and restrictions as the Corporation thinks fit, and may be made either generally or in relation to any particular matter.

18. (1) With effect from the appointed date all property, movable or immovable, which immediately prior to the appointed date are held by or on behalf of the Government by the Department of Broadcasting shall be transferred to, vested in and held by the Corporation. Transfer of property, &c., to the Corporation.

(2) All debts, liabilities, obligations and contracts of the Department of Broadcasting, outstanding or subsisting at the appointed date, shall, with effect from the appointed date, be deemed to be the debts, liabilities, obligations and contracts of the Corporation.

(c) determine the terms and conditions of the service of such staff; and

(d) may establish and regulate provident funds or schemes for the benefit of such staff, and may make contributions to any such fund or scheme.

PART II

STAFF OF THE CORPORATION

Appointment of the Director-General and other officers and servants to the staff of the Corporation.

19. (1) The Corporation may, in consultation with the Minister, appoint to the staff of the Corporation a Director-General who shall be the chief executive officer:

Provided that the Corporation may, with the concurrence of the Minister, appoint the Chairman of the Corporation to perform, in addition to his duties, the duties of the Director-General.

(2) The Director-General shall, subject to the provisions of subsection (3), hold office for a period of five years, and may at the termination of that period be reappointed for a further period as the Corporation may, with the concurrence of the Minister, determine.

(3) The Director-General—

(a) shall retire from office on reaching the age of sixty years ; and

(b) may at any time, with the prior approval of the Minister, be removed from office.

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

Powers of the Corporation in regard to the staff of the Corporation.

20. (1) Subject to the other provisions of this Act, the Corporation may—

(a) dismiss and exercise disciplinary control over the staff of the Corporation;

(b) fix the wages or salary or other remuneration of such staff;

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

21. (1) Within two years after the appointed date any officer or servant of the Department of Broadcasting who does not belong to a transferable service of the Government may be employed by the Corporation on such terms and conditions as shall be agreed upon by that officer or servant and the Corporation; and in any such case paragraphs (a), (b) and (c) of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall apply, *mutatis mutandis*, to any such officer or servant. Any such officer or servant who is employed by the Corporation may, within two years after the date on which he was so employed, opt to retire from the service of the Corporation, and if on the date on which he was so employed his substantive post in the Department of Broadcasting was a post declared to be pensionable under the Minutes on Pensions, he shall, if he so opts to retire, be eligible, notwithstanding anything in the preceding provisions of this section, for such an award under those Minutes as might have been made to him if he had retired from the public service on the ground of abolition of post on the date on which he was so employed by the Corporation.

Officers and servants of the Department of Broadcasting. [§ 2, Law 5 of 1974.]

(2) Where an officer or servant of the Department of Broadcasting, not belonging to a transferable service of the Government, is not employed by the Corporation within two years after the appointed date, he shall be retired; and if on the date of his retirement his substantive post in that Department was a post declared to be pensionable under the Minutes on Pensions, he shall be eligible for such an award under those Minutes as might have been made to

*Repealed by Law No. 19 of 1978.

him if he had retired from the state service on the ground of abolition of post on the date of his retirement.

Appointment of public officers not in the Department of Broadcasting.

22. (1) Where an officer in the public service (other than an officer of the Department of Broadcasting) is permanently appointed to the staff of the Corporation, the provisions of paragraphs (a), (b) and (c) of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall, *mutatis mutandis*, apply to such officer.

(2) At the request of the Corporation, any officer in the public service may, with the consent of that officer and of the Secretary to the Treasury, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Corporation, with like consent and where such officer is so appointed 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.

PART III

FINANCE

The Fund of the Corporation.

23. (1) The Corporation shall have its own Fund.

(2) There shall be paid into the Fund of the Corporation—

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Corporation;
- (b) all such sums of money as may be advanced from time to time by the Minister in charge of the subject of Finance to the Corporation;
- (c) all sums of money received by the Corporation in the exercise, discharge and performance of its functions, powers and duties ;
- (d) such portion of the fees received each year under the Telecommunications Ordinance for the issue and renewal

of radio licences as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance; and

(e) all other sums of money as are required by this Act or any regulation made thereunder to be paid to such Fund by the Corporation.

(3) There shall be paid out of the Fund of the Corporation all sums of money required to defray any expenditure incurred by the Corporation 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.

24. (1) The Corporation may, from time to time, with the consent of the Minister and on and subject to such terms and conditions as he thinks fit, borrow temporarily, by way of overdraft or otherwise, such sums as the Corporation may require for meeting the obligations of the Corporation:

Borrowing powers.

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Corporation under this subsection shall not exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

(2) The Corporation 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 a temporary loan under subsection (1) for all or any of the following purposes:—

- (a) the provision of money for meeting any expenses incurred in connexion with any work involving the installation, establishment, operation and maintenance of any apparatus required for broadcasting and of broadcasting stations;
- (b) the acquisition of any land or interest in land for the above-mentioned purposes;

*Repeated by Law No. 19 of 1978.

(c) the redemption of any stock issued or any loan raised by the Corporation;

(d) the repayment of any money temporarily borrowed under subsection (1).

(3) The Corporation may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money for any of the purposes mentioned in subsection (2) by the issue of stock under subsection (4) or in any other manner whatsoever.

(4) The Corporation may create and issue any stock required for the purposes of exercising the powers of the Corporation under subsection (3) and the stock so created and issued is in this Act referred to as " Broadcasting Corporation Stock ".

Investments of the funds of the Corporation.

25. Any funds of the Corporation which are not immediately required for the exercise of the functions of the Corporation under this Act may be invested by the Corporation in such manner, or in such securities, as may be authorized by the Minister with the concurrence of the Minister in charge of the subject of Finance. The Corporation may make investments in connexion with such activities as are directly connected with broadcasting, subject to the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Accounts of the Corporation and financial year.

26. (1) The Corporation shall cause its accounts to be kept in such form and manner as may be determined by the Corporation.

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

(3) The financial year of the Corporation shall be the period of twelve months commencing on the first day of January.

Audit of the accounts of the Corporation.

27. (1) The Corporation shall have its accounts for each financial year audited by the Auditor-General.

(2) 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 auditing the accounts of the Corporation, the Auditor-General shall be paid from the Fund of the Corporation such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(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,

28. (1) The Auditor-General shall examine the accounts of the Corporation and furnish a report— The Auditor-General's 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.

(2) The Auditor-General shall transmit his report to the Corporation.

Annual accounts with the auditor's report and a report of the annual activities of the Corporation to be transmitted to the Minister.

29. The Corporation shall, on receipt of the Auditor-General's report on the accounts for each financial year, transmit such report together with the profit and loss account and the balance sheet to which the report relates, and a statement by the Corporation of its activities during that financial year 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 report and accounts relate.

Estimate of income and expenditure of the Corporation for each financial year to be transmitted to the Minister.

30. (1) The Corporation shall, for each financial year, prepare in such form as may be approved by the Minister an estimate of the income and expenditure for that year.

(2) The estimate referred to in subsection (1) shall be in duplicate and shall be transmitted to the Minister on or before the first day of June in the financial year preceding the one to which it relates.

Programme of work to be undertaken by the Corporation during a financial year to be transmitted to the Minister for his approval.

31. 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.

Exemption from income tax and customs duty.

32. (1) The income of the Corporation shall be exempt from income tax.

(2) 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 articles imported by the Corporation for any of its purposes.

Act and may pay the premiums payable in respect of any such contracts. The categories of employees to be so insured shall be determined by the Corporation by rules, made under this Act.

34. (1) No suit or prosecution shall lie—

(a) against the Corporation for any act which in good faith is done or purports to be done by the Corporation under this Act, or any regulation made thereunder;

Protection for action taken under this Act, &c., or on the direction of the Corporation.

(b) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purports to be done by him under this Act or any regulation made thereunder, or on the direction of the Corporation.

(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 Fund of the Corporation and any costs paid to, or recovered by, the Corporation in any such suit or prosecution shall be credited to the Fund 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 purports to be done by him under this Act or any regulation made thereunder, or on the direction of the Corporation shall, if the court holds that the act was done in good faith, be paid out of the Fund of the Corporation.

PART IV

GENERAL

Corporation may insure employees.

33. The Corporation may from time to time enter into contracts of insurance insuring employees of the Corporation against loss from personal accident arising out of and in the course of the exercise by them of any power or duty conferred or imposed upon the Corporation under this

35. No writ against person or property shall issue 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.

36. All members, officers and servants of the Corporation shall be deemed to be public servants within the meaning of and for the purposes of the Penal Code.

Members and employees of the Corporation deemed to be public servants.

Contracts.

37. (1) Contracts on behalf of the Corporation 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 Corporation in writing under the common seal of the Corporation;

(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 Corporation 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 parole only and not reduced into writing, may be made by parole on behalf of the Corporation by any person or persons duly authorized thereto as hereinafter provided.

(2) A contract made according to this section shall be effectual in law and shall bind the Corporation and all parties thereto and their legal representatives.

(3) A contract made according to this section may be waived or discharged in the same manner in which it is authorized by this section to be made.

Returns and information.

38. The Corporation or any person authorized in that behalf by the Corporation may by notice in writing require any person to furnish to the Corporation or the person so authorized, within such period as shall be specified in the notice, all such returns or information relating to all such matters as may be necessary for the Corporation under this Act and as are within the knowledge of that person.

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

39. 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.

49. Any officer or servant of the Corporation who is generally or specially authorized in that behalf by the Corporation 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 Corporation, 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 Corporation.

Power to enter any land or premises.

41. (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 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 regulation made under this Act,

shall be guilty of an offence under this Act.

42. 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 five hundred rupees.

Penalties for offences.

43. (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.

SRI LANKA BROADCASTING CORPORATION [Cap. 365]

Power of Minister to issue licences for the establishment and maintenance of private broadcasting stations.

44. (1) The Minister may, if he considers it necessary so to do and after consultation with the Corporation, issue to any person a licence for the establishment and maintenance of any private broadcasting station in any area in Sri Lanka.

(2) Before the issue of a licence under subsection (1), the Corporation shall, by notice published in the Gazette and in one or more newspapers circulating in Sri Lanka, call for applications from persons for the issue of a licence. Every such notice shall specify the class or type of private broadcasting station which is required to be established and such other matters as the Corporation thinks fit.

(3) No licence shall be issued to any person under this section except after inquiry into his application.

(4) Regulations may be made by the Minister in respect of all or any of the following matters:—

- (a) the procedure to be followed in respect of applications to be made, and the hearing of inquiries into applications, for the issue of licences under this section;
- (b) the control and supervision by the Corporation of programmes broadcast from private broadcasting stations;
- (c) the furnishing or disclosure by any body of persons applying for a licence under this section of information relating to such body and of its members;
- (f) the prohibition, regulation or control of the ownership of private broadcasting stations by prescribed persons or classes of persons;
- (e) the regulation or control of the transfer of shares in companies which hold licences for private broadcasting stations, and the transfer of interests on such stations;
- (f) the form of application for a licence under this section and the form of such licence; and

(g) the fees to be charged for such licences.

45. (1) The Minister may make regulations for the purpose of the establishment of one or more consultative committees to advise the Corporation on such matters relating to broadcasting as may be referred to the committees by the Corporation.

(2) Regulations made under subsection (1) may prescribe the remuneration payable to the members of the consultative committee or committees.

46. (1) 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.

(2) Every regulation made by the Minister shall, as soon as convenient after 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.

47. 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.

48. In this Act—

"appointed date" means the 5th day of January, 1967;

"broadcasting" includes the broadcasting of television programmes;

"private broadcasting station" means a broadcasting station established or operated by some person other than the Corporation;

"programme" includes any signal, announcement, item, communication, picture or other matter broadcast or intended to be broadcast from a broadcasting station for reception by the public.

Establishment of committees to advise the Corporation on matters relating to broadcasting.

Regulations made under this Act to be published in the Gazette and to be brought before Parliament.

This Act to prevail over other written law.

Interpretation.

CHAPTER 288

STATE LANDS ENCROACHMENTS

Ordinances Nos.12 of 1840, 22 of 1931, 8 of 1947, Act No. 8 of 1954.

AN ORDINANCE TO MAKE PROVISION FOR THE PREVENTION OF ENCROACHMENTS UPON STATE LANDS.

[27 th October. 1840.]

Short title. 1. This Ordinance may be cited as the State Lands Encroachments Ordinance.

Information of encroachment. 2. It shall and may be lawful for the District Court, upon information supported by affidavit charging any person or persons with having, without the permission of the Government, entered upon or taken possession of any land which belongs to, or which immediately prior to such entry or taking possession was in the possession of, the State, to issue its summons for the appearance before it of the party or parties alleged to have so illegally entered upon or taken possession of such land, and of any other person or persons whom it may be necessary or proper to examine as a witness or witnesses on the hearing of any such information; and the said District Court shall proceed in a summary way in the presence of the parties, or in case of wilful absence of any person against whom any such information shall have been laid, then in his absence to hear and determine such information; and in case on the hearing thereof it shall be made to appear by the examination of the said party or parties, or other sufficient evidence to the satisfaction of such District Court, that the said party or parties against whom such information shall have been laid hath or have entered upon or taken possession of the land mentioned or referred to in such information without the permission of the Government, such District Court is hereby authorized and required to make an order directing such party or parties to deliver up to the State peaceable possession of such land, together with all crops growing thereon, and all buildings and other immovable property upon and affixed to the said land, and to pay the cost of such information; and in case the party

or parties against whom any such order shall have been made shall not, within fourteen days after service thereof, deliver up possession of the said land and premises, pursuant to the said order, or shall afterwards make or cause to be made any further encroachments upon the said land or premises, contrary to such order or in evasion thereof, then and in such case it shall be lawful for such District Court to adjudge such party or parties to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for any time not exceeding fourteen days, and to make a further order for the immediate delivery over of the possession of such land and premises to the State; and the District Court shall thereupon cause possession thereof to be delivered to the State accordingly.

Penalty on disobedience of order or renewed encroachment.

3. Any person against whom any such order as aforesaid may have been made may, notwithstanding such order, proceed by the ordinary course of law to recover possession of such lands, in case he shall be able to establish a title thereto; and may also in such case recover a reasonable compensation for the damage he may have sustained by reason of his having been compelled to deliver up possession of the said premises, and in like manner, in case of the dismissal of any such information, the party having preferred the same may proceed according to the ordinary course of law, as if no such information had been preferred.

Subsequent proceeding by ordinary course of law.

4. Provided always that in case any such information shall be dismissed, it shall be lawful for the said District Court, if it shall think fit, to order payment by Government to the party or parties against whom the

Court may order payment of costs.

Order for delivery up of possession.

same may have been preferred of such sum as the said court may consider to be the amount of costs fairly incurred by such party or parties by reason of such information so dismissed.

Proceedings subject to rules of court.

5. The forms of the proceedings to be observed on lodging complaints, in issuing summonses, in the examination of the party or parties, in the citation of witnesses, in the making orders, and generally for the complete carrying into execution the powers hereby vested in the said District Court, shall be according to such general rules of practice as the Judges of the Supreme Court may now or hereafter frame thereon.

Cinnamon lands, when the property of the State.

6. All cinnamon lands which shall have been uninterruptedly possessed by Government for a period of thirty years and upwards, by peeling the cinnamon growing thereon, shall be held and deemed to be the property of the State.

Waste lands to be deemed the property of the State.

7. All forest, waste, unoccupied, or uncultivated lands shall be presumed to be the property of the State until the contrary thereof be proved, and all chenas and other lands which can be only cultivated after intervals of several years shall, if the same be situate within the districts formerly comprised in the Kandyan provinces (wherein no *thombo* registers have been heretofore established), be deemed to belong to the State and not to be the property of any private person claiming the same against the State, except upon proof only by such person—

(a) of a *sannas* or grant for the same, together with satisfactory evidence as to the limits and boundaries thereof; or

(b) of such customary taxes, dues, or services having been rendered to the State or other person for the same as have been rendered for similar lands being the property of private proprietors in the same districts ; or

(c) of his or his predecessor in title having made and maintained a permanent plantation in and upon the same for a period of not less than thirty years, or of his having otherwise improved the same and maintained it in such improved state for such period, and in either case of his having held uninterrupted possession of the same during the whole of the said period.

In all other districts in Sri Lanka chena and other lands which can only be cultivated after intervals of several years shall be deemed to be forest or waste lands within the meaning of this section.

8. All and every encroachment on any public road, street, or highway, by building or other erection, or by enclosure, planting, or otherwise, shall, on information thereof, be immediately abated and removed by judgment, order, or decree of the District Court thereon, and the party or parties offending found liable in damages besides the costs of suit.

Encroachment on road, &c.

9. Any divisional Assistant Government Agent or grama seva niladhari who shall wilfully or knowingly refuse or neglect to give every information within his knowledge or power immediately to the Government Agent or some Assistant Agent of his administrative district, of any encroachment made by any person or persons upon any land belonging to the State and situated in the division or village of such divisional Assistant Government Agent or grama seva niladhari, shall be liable for every such offence to a fine not exceeding one hundred rupees.

Divisional Assistant Government Agents and grama seva niladharis to give information.

10. In this Ordinance, unless the context otherwise requires—

Interpretation.

"unoccupied land" includes land occupied by, on behalf of, or under, the State.

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CHAPTER 636

SRI LANKA EX-SERVICEMEN'S ASSOCIATION

Law
No. 8 of 1976.

A LAW TO INCORPORATE THE SRI LANKA EX-SERVICEMEN'S ASSOCIATION.

[9th April, 1976.]

- Short title. **1.** This Law may be cited as the Sri Lanka Ex-Servicemen's Association Law.
- Incorporation of the Sri Lanka Ex-Servicemen's Association. **2.** From and after the date of commencement of this Law, the persons who are for the time being members of the Sri Lanka Ex-Servicemen's Association (hereinafter referred to as the "Association") shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession, a common seal, and the name "The Sri Lanka Ex-Servicemen's Association". The Corporation may sue and be sued in such name.
- Objects of the Corporation. **3.** The objects of the Corporation shall be-
- (a) to foster a spirit of comradeship and *esprit-de-corps* among all ranks of Sri Lanka Ex-Servicemen who served in the 1914-1918 and 1939-1945 Wars or in the period between, in any Unit of the Ceylon Defence Force or in the Ceylon Royal Artillery or in the Ceylon Naval Volunteer Force or in the Ceylon Naval Volunteer Reserve thereafter, and all those who served in any Unit of the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force, or in any Unit of the Forces of the Commonwealth;
 - (b) to promote the welfare of such Ex-Servicemen;
 - (c) to make such representations as are necessary to the State and other employers in regard to resettlement of Ex-Servicemen and to assist in the placing of individual Ex-Servicemen in employment;
 - (d) to grant financial assistance to Ex-Servicemen and their dependants who are, in the opinion of the Executive Committee, in need of financial assistance ;
 - (e) to foster and encourage the formation of Corps and Regimental Associations by persons who have retired from the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force, to be affiliated to the Association; and
 - (f) to maintain, conduct and manage the War Charities Fund (Sri Lanka) in accordance with such regulations as may be framed for that purpose.
- 4.** (1) The affairs of the Corporation shall, subject to the rules in force for the time being as hereinafter provided, be administered by the office-bearers of the Association, the Executive Committee and the General Council to be elected, or nominated, as the case may be, in accordance with the rules in force for the time being of the Corporation.
- (2) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.
- 5.** (1) The Corporation may, by a vote of the majority of the members present and voting at a general meeting of the Corporation, make rules for the admission to, and the removal from, membership of the Corporation, for the performance of the duties of the office-bearers and the members of the General Council and the Executive Committee of the Corporation, for the procedure in the transaction of business,

Management of the affairs of the Corporation.

Power to make rules.

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and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects.

(2) Any rule of the Corporation may be altered, amended or rescinded by a vote of two-thirds of the members present and voting at a general meeting of the Corporation.

(3) Subject to the provisions of subsections (1) and (2) of this section, the rules set out in the First Schedule to this Law shall be the rules of the Corporation.

Liabilities and debts, &c.

6. All the 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 fees, subscriptions, contributions and grants payable to, the Association shall be paid to the Corporation.

The Corporation may acquire, hold and dispose of property, and borrow money.

7. The Corporation—

- (a) may acquire and hold property, movable or immovable, by right of purchase, grant, gift, testamentary disposition or otherwise;
- (b) shall hold any property subject to the rules for the time being of the Corporation;

(c) may subject to any trust attaching to such property and to the law regulating such trusts, sell, mortgage, lease, exchange or otherwise dispose of any of its properties; and

(d) may borrow money, for the purposes of the Corporation,

8. 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 two office-bearers 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.

9. The Honorary Secretary of the Corporation shall have the custody of the seal of the Corporation.

Custody of the seal.

10. The Corporation shall hold and administer the War Charities Fund (Sri Lanka) in accordance with the Regulations of the War Charities Fund (Sri Lanka) set out in the Second Schedule to this Law.

War Charities Fund (Sri Lanka).

11. 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.

Saving of the rights of the Republic and others.

[Section 5 (3).]

FIRST SCHEDULE

Rules of the Sri Lanka Ex-Servicemen's Association

NAME

- 1. The Association shall be called " The Sri Lanka Ex-Servicemen's Association

OBJECTS

- 2. The objects of the Association shall be—

- (a) to foster a spirit of comradeship and *esprit-de-corps* among all ranks of Sri Lanka Ex-Servicemen who served in the 1914-1918 and 1939-1945 Wars. or in the period in between, in any Unit of the Ceylon Defence Force or in the Ceylon Royal Artillery or in the Ceylon Naval Volunteer Force or in the Ceylon Naval Volunteer Reserve thereafter, and all those who served in any Unit of the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force, or in any Unit of the Forces of the Commonwealth ;
- (b) to promote the welfare of such Ex-Servicemen ;
- (c) to make such representations as are necessary to State and other employers in regard to resettlement of Ex-Servicemen and to assist in the placing of individual Ex-Servicemen in employment;

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- (d) to grant financial assistance to Ex-Servicemen and their dependants who are, in the opinion of the Executive Committee, in need of financial assistance. {Note : The decision of the Executive Committee in such cases shall be final, and there shall be no appeal therefrom) ;
- (e) to foster and encourage the formation of Corps and Regimental Associations by persons who have retired from the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force, to be affiliated to the Association; and
- (f) to maintain, conduct and manage the War Charities Fund (Sri Lanka) in accordance with such regulations as may be framed for that purpose.

MEMBERSHIP

3. All citizens of Sri Lanka who served in any Unit of the Forces of the Commonwealth in or from Sri Lanka for any period in the 1914-1918 and 1939-1945 Wars or in the period in between, all citizens of Sri Lanka who served in any Unit of the Ceylon Defence Force or in the Ceylon Royal Artillery or in the Ceylon Naval Volunteer Force or in the Ceylon Royal Naval Volunteer Reserve thereafter, and all citizens of Sri Lanka who served in any Unit of the Ceylon Army (now known as Sri Lanka Army), the Royal Ceylon Navy (now known as Sri Lanka Navy) or the Royal Ceylon Air Force (now known as Sri Lanka Air Force), shall be eligible for membership :

Provided, however, that all non citizens of Sri Lanka who were members of the Association on 31.12.67 shall continue to be members and to enjoy all the privileges and benefits of membership.

The Executive Committee may, in its discretion, admit to honorary membership any non citizen of Sri Lanka who is otherwise eligible for membership under the terms of Rule 3.

4. (a) Ex-Servicemen eligible under Rule 3 may obtain membership either by virtue of membership in an affiliated Association or by direct application.

(b) Members of an affiliated Association shall, on making an application in that behalf, be admitted to membership of the Association, subject to the provisions contained in paragraph (d) of this Rule.

(c) Applications for membership from Ex-Servicemen who are not members of an affiliated Association shall be considered by the Executive Committee who may admit such Ex-Servicemen to membership on payment of the Life Subscription.

(d) The Executive Committee may, in its discretion, reject any application. An applicant so rejected may appeal to the General Council for reconsideration.

AFFILIATED ASSOCIATIONS

5. The following Associations shall be affiliated to the Association :—

The Ceylon Artillery Association,
The Ceylon Engineers Association,
The Signals Association of Ceylon,
The C.L.I. Association,
The C.A.S.C. Association,
The C.A.M.C. Association,
The C.R.N.V.R. Association,
The Uva Ex-Servicemen's Association,

and such other Service or Regimental Association as may apply for affiliation from time to time. The Executive Committee shall have the power to reject such application. Any Service or Regimental Association so rejected may appeal to the General Council for reconsideration.

SUBSCRIPTIONS

6. (a) Affiliated Associations shall pay an affiliation fee computed at the rate of Re. 1 per person admitted to membership of the Association.

(b) Persons admitted under Rule 4 (c) shall pay a Life Subscription of Rs. 5 payable with the application for membership which shall be on such form as may be prescribed by the Executive Committee.

PATRONAGE

7. A Patron and not more than three Vice-Patrons may be appointed by the General Council at its Annual Meeting. Such Patron and Vice-Patrons shall hold office for one year but shall be eligible for reappointment.

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MANAGEMENT

8. (a) The affairs of the Association shall be managed by—

- (i) a President;
- (ii) three Vice-Presidents;
- (iii) an Honorary Secretary ;
- (iv) an Honorary Assistant Secretary ;
- (v) an Honorary Treasurer ; and
- (vi) an Honorary Assistant Treasurer;

all of whom shall be known as the office-bearers of the Association :

Provided, however, that no person who has not been nominated by an affiliated Association as a delegate to the General Council shall be eligible to stand for election as an office-bearer.

(b) The General Council shall have the power to and shall be responsible for—

- (i) electing the office-bearers of the Association, excepting the Honorary Assistant Secretary and the Honorary Assistant Treasurer;
- (ii) electing to the Executive Committee the elected member referred to in Rule 10 (a) (iii);
- (iii) reviewing, and if necessary, altering or amending any decision taken by the Executive Committee; and
- (iv) formulating the general policy of the Association.

(c) The Executive Committee shall be responsible for executive control of the affairs of the Association in conformity with the general policy laid down by the General Council.

9. The General Council shall consist of—

- (a) the office-bearers of the Association ;
- (b) the delegates nominated by the affiliated Associations as follows :—

Associations with a membership of 100 and below—5 delegates ;
Associations with a membership of 101 to 250—10 delegates ;
Associations with a membership of 251 to 1,000—15 delegates ;
Associations with a membership of 1,001 to 2,000—20 delegates; and
Associations with a membership of over 2,000—25 delegates; *aad*

(c) two delegates nominated by the Executive Committee to represent members admitted under Rule 4 (c). (These nominations shall be, unless the Executive Committee has good cause to the contrary, from among the members admitted under that Rule).

10. (a) The Executive Committee shall consist of—

- (i) the office-bearers of the Association ;
- (ii) the representatives annually nominated by affiliated Associations, such nominations being from those nominated to the General Council under Rule 9 (b). (Such representatives shall be designated " nominated members "); and
- (iii) one elected member to represent members admitted under Rule 4 (c).

This member shall be elected, unless it appears to the General Council to be impracticable, from among members admitted under the above-mentioned Rule.

(This member shall be designated " elected member ").

(b) Affiliated Associations shall be entitled to nominate members as follows ;—

Associations with a membership of 250 or below—I member;
Associations with a membership of 251 to 1,500—2 members ; and
Associations with a membership of over 1,500—3 members.

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(c) The office-bearers of the Association shall hold office from the day of their election until the following Annual Meeting.

(d) All nominated members and the elected member shall hold office from the day after the Annual Meeting of the General Council next after their nomination until the following Annual Meeting.

11. Vacancies in the General Council and Executive Committee shall be filled until the next Annual Meeting of the General Council as follows :—

(d) in the case of nominated members by nomination by the affiliated Associations concerned ; and

(b) in the case of other vacancies by election by the Executive Committee.

12. The Executive Committee shall have the power to appoint such sub-Committees as may be required from time to time. Such sub-Committees shall have the power to co-opt any person or persons as they deem fit-

MEETINGS

13. The General Council shall meet once a year. Such Annual Meeting shall be held as soon as possible after 1st December in each year, but in any event not later than 31st March.

14. At least twenty-eight days' notice of such Annual Meeting shall be given to affiliated Associations and in the Press.

15. (a) The Report of the Executive Committee and the Audited Accounts of the preceding financial year shall be submitted for adoption at such Annual Meeting of the General Council. All nominations (except those referred to in Rule 11) to the General Council and the Executive Committee shall also be tabled at the Annual Meeting of the General Council.

(b) The financial year of the Association shall commence on 1st October of each year and shall terminate on 30th September of the following year.

16. The office-bearers of the Association (except the Honorary Assistant Secretary and the Honorary Assistant Treasurer, who shall be appointed by the Executive Committee) shall be elected at the Annual Meeting of the General Council.

17. (a) At least fourteen days' notice in writing shall be given by any member of the Association to the Honorary Secretary of any motion required to be brought up at the Annual Meeting of the General Council.

(b) Any member who is not a member of the General Council giving notice of a motion referred to in paragraph (a) above shall be permitted to be present and move such motion at the Annual Meeting of the General Council but shall not be permitted to vote on such motion.

(c) The agenda of the Annual Meeting of the General Council shall be notified in writing to all members of the Council at least seven days before such meeting. Such notification shall be issued to members through the affiliated Associations of which they are members.

18. The quorum at the Annual Meeting of the General Council shall be forty.

19. (a) The Executive Committee may call a Special Meeting of the General Council at any time to deal with urgent matters.

(b) The Honorary Secretary shall be bound to convene a Special Meeting of the General Council within twenty-eight days of receiving a request therefor from three affiliated Associations or from thirty-five members of the General Council. Such request shall be in writing and shall specify the matters to be brought up at such Special Meeting.

(c) The agenda of such a Special Meeting of the General Council shall be notified in writing to all members of the General Council at least seven days before such Meeting. Such notification shall be issued to members through the affiliated Associations of which they are members.

20. No business other than that specified in the notice summoning a Special Meeting of the General Council shall be transacted at such Meeting.

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21. At least fourteen days' notice of a Special Meeting of the General Council shall be given to affiliated Associations and in the Press.
22. The quorum at a Special Meeting of the General Council shall be forty.
23. The Executive Committee shall meet at least once in every two months.
24. The quorum at a meeting of the Executive Committee shall be eight.

FINANCE

25. (a) All moneys shall be paid into a banking account in the name of the Association, except moneys belonging to the War Charities Fund (Sri Lanka) which shall be paid into a banking account in the name of that Fund.

(b) All payments must be approved by the Executive Committee and all cheques must be signed by the Honorary Treasurer and any one of the following :—

- (i) the President,
- (ii) one of the Vice-Presidents,
- (iii) the Honorary Secretary.

26. The accounts of the Association shall be audited prior to submission to the Annual Meeting of the General Council by the auditors appointed by the previous Annual Meeting of the General Council.

GENERAL

27. No alteration or amendment of the Rules shall be valid unless approved by at least two-thirds of the members present and voting at an Annual or Special Meeting of the General Council.

28. (a) Notice of any motion to alter or amend the Rules shall be given by any member of the Association in writing to the Honorary Secretary at least fourteen days before the Annual or Special Meeting of the General Council. The Honorary Secretary shall give notice of such motion in the Press at least seven days before the date of the Meeting.

(b) Any member who is not a member of the General Council giving notice of a motion referred to in paragraph (a) above shall be permitted to be present and move such motion at the Annual Meeting, but shall have no powers of voting.

29. Any subject not provided for by the above Rules shall be dealt with by the Executive Committee, whose decision in all such matters shall be final, provided, however, that the General Council, may if it deems fit, review, alter or amend any such decision.

30. Regulations for carrying out the provisions of this Constitution and for the conduct and management of the Association may be drafted, from time to time, by the Executive Committee and shall be submitted to General Council for adoption.

31. The Association may, in the discretion of the Executive Committee, be affiliated with organisations abroad, which have similar aims and objects (e.g. The World Veterans' Federation, The British Commonwealth Ex-Services League).

32. Where Associations are represented in the Executive Committee by one nominated member and in the event of such nominated member not being able to attend an Executive Committee Meeting, a substitute duly authorized by the Chairman of such Association will be permitted to represent the nominated member at such Executive Committee Meeting and he shall have all the powers held by such nominated member of the Executive Committee.

33. For the purpose of and in these Rules:

(a) " Ex-Servicemen " shall mean persons to whom the description contained in Rule 3 applies ; and

(b) " Association " shall mean the Sri Lanka Ex-Servicemen's Association.

War Charities Fund (Sri Lanka)

REGULATIONS

1. The War Charities Fund (Sri Lanka) shall be responsible for the custody, collection, and disbursement of Poppy Day collections, and all moneys received as donations or contributions to the Fund.
2. The War Charities Fund (Sri Lanka) shall be held and administered by the Sri Lanka Ex-Servicemen's Association, who shall be responsible and have the authority necessary for making all arrangements connected with Poppy Day and Remembrance Day.
3. All disbursements from the War Charities Fund (Sri Lanka) shall be authorised by the Executive Committee of the Sri Lanka Ex-Servicemen's Association.
4. All moneys belonging to the War Charities Fund (Sri Lanka) shall be lodged to the account of the Fund in the Chartered Bank, Colombo.
5. The President, Vice-Presidents, Honorary Secretary and Honorary Treasurer are authorized to sign cheques drawn on the War Charities Fund (Sri Lanka) and the signatures of the Honorary Treasurer and of any one of the above-mentioned office-bearers will suffice.
6. The general object of the War Charities Fund (Sri Lanka) shall be to provide financial assistance, medical aid and nourishment, and in general to ensure the welfare of needy, ageing, infirm, incurable and destitute Ex-Servicemen or their dependants.

CHAPTER 333

SRI LANKA EXPORT CREDIT INSURANCE CORPORATION

Act No. 15 of 1978. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA EXPORT CREDIT INSURANCE CORPORATION AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[15th December, 1978]

Short title. **1.** This Act may be cited as the Sri Lanka Export Credit Insurance Corporation Act.

PART I

CONSTITUTION OF THE SRI LANKA EXPORT CREDIT INSURANCE CORPORATION

Establishment of the Sri Lanka Export Credit Insurance Corporation. **2.** (1) There shall be established a Corporation which shall be called the Sri Lanka Export Credit Insurance Corporation (hereinafter referred to as the " Corporation ").

(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 such name.

(3) The head office of the Corporation shall be in Colombo and the Corporation may with the prior approval of the Minister establish branch offices within or outside Sri Lanka.

Constitution of the Board of Directors of the Corporation. **3.** (1) The management and the administration of the affairs of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the " Board") which shall consist of the following members appointed by the Minister:—

- (a) a Chairman in consultation with the Minister in charge of the subject of Finance;
- (b) an officer of the Central Bank of Ceylon nominated by the Monetary Board-

(c) an officer of the Insurance Corporation of Ceylon nominated by the Board of Directors of the Insurance Corporation of Ceylon;

(d) an officer of the Ministry charged with the subject of Trade; and

(e) an officer of the Ministry charged with the subject of Finance nominated by the Minister in charge of the subject of Finance.

(2) The provisions of Part III of this Act shall apply to the members of the Board.

4. The Board may exercise, discharge and perform the powers, functions and duties of the Corporation subject to such general or special directions as the Minister may issue from time to time and it shall be the duty of such Board to comply with such directions. Board to exercise its powers, &c., under the directions of the Minister.

PART II

OBJECTS, POWERS AND FUNCTIONS

5. The objects of the Corporation shall be- Objects.

- (1) to issue insurance policies to exporters of goods and services against non-receipt or delayed receipt of payments resulting from commercial and non-commercial risks;
- (2) to issue guarantees to banks and other financial institutions to facilitate the granting of pre-shipment and post-shipment finance;

- (3) to issue guarantees to persons or institutions abroad in connexion with goods exported by any person or institution from Sri Lanka or for the due performance of any services to be rendered to such persons or institutions within or outside Sri Lanka;
- (4) to provide financial assistance to exporters for the promotion and development of export of goods and services from Sri Lanka;
- (5) to provide guarantees to exporters against losses that may be sustained in undertaking market surveys, publicity and any other promotional measures in foreign countries;
- (6) to re-finance and provide refinancing facilities to banks and other financial institutions in respect of credit facilities granted by such banks and institutions for the promotion of exports;
- (7) to undertake market studies abroad for promotion of exports from Sri Lanka and to conduct seminars and courses on various aspects of export promotion and to collect and disseminate information relating to marketing possibilities and procedures;
- (8) to act as agent of the Government, or with the approval of the Government on its own account, to provide insurance and guarantees, undertake such responsibilities and discharge such functions as are considered by the Government as necessary in the national interest;
- (9) to help exporters to diversify and expand exports, find new markets and sell their goods abroad on competitive terms of payment; and
- (10) to discharge such other functions as the Corporation may consider as necessary for the achievement of any of its objects.
6. (1) For the purpose of carrying out its objects the Corporation may exercise, perform and discharge all or any of the following powers, duties and functions:—
- (a) acquire and hold any movable or immovable property and dispose of any property acquired or held by the Corporation;
- (b) draw, make, accept, discount, execute, endorse, issue and negotiate bills of exchange, promissory notes and other negotiable or transferable instruments;
- (c) obtain loans on such terms and conditions as may be approved by the Minister with the concurrence of the Minister in charge of the subject of Finance;
- (d) invest the moneys of the Corporation in appropriate Government securities as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance;
- (e) take all such steps as may be necessary or expedient for the protection or realization of any investment;
- (f) provide financial assistance in the form of loans with or without security to exporters, banks or any other person to promote the expansion of exports;
- (g) employ such officers and servants as may be necessary for the purpose of carrying out the work of the Corporation;
- (h) delegate, subject to the general or special directions of the Corporation, to any member or officer of the Corporation any functions or duties of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of its business,

Powers, duties and functions of the Corporation-

- (t) establish and maintain a provident fund for persons employed by the Corporation and to make contributions to such fund and to provide for the welfare of the employees and their dependants by grants of loans, pension or other payments;
- (o) appoint, employ, remunerate and control its officers, servants and agents and direct and decide all matters connected with the administration of its affairs;
- (k) enter into and perform all such contracts as may be necessary for or incidental to the carrying out and performance of its objects;
- (l) re-insure with any insurer, organization or any Government any liability arising out of any policy of insurance or guarantee issued by the Corporation and to offer re-insurance to other insurers ;
- (m) collaborate and associate with other insurers, in regional or international export credit insurance or re-insurance schemes;
- (n) provide managerial, technical and administrative training for its officers and servants;
- (o) furnish managerial, technical and administrative advice and services to any Government Department, public corporation or other institution within or outside Sri Lanka; and
- (p) do all such other things as are incidental or conducive to the attainment of its objects.

- (A) if he directly or indirectly 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 member of the Board.

8. Every member appointed under section 3 shall unless he vacates office earlier by death, resignation or removal, hold office for a term of three years and shall be eligible for reappointment.

9. Any member of the Board may at any time resign his office by letter to that effect addressed to the Minister.

10. (1) The Minister may, by Order published in the Gazette, remove the Chairman or any member from office without assigning any reason therefor and such removal shall not be called in question in any court:

Provided, however, that no member shall be removed under this subsection except in consultation with the Minister in consultation with whom such member was appointed or the Minister or authority nominating such member.

(2) In the event of the vacation of office by any member of the Board or his removal from office under the provisions of the preceding subsection, the Minister may appoint another person in like manner as such member was appointed in accordance with the provisions of section 3. Any person appointed in place of such member shall hold office during the unexpired part of the term of office of the member whom he succeeds.

(3) If any member of the Board is temporarily unable to perform the duties of his office during any period due to ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place during such period, in like manner as such member was appointed in accordance with the provisions of section 3.

PART III

BOARD OF DIRECTORS

7. A person shall be disqualified from being appointed or continuing as the Chairman or a member of the Board—

- (a) if he is or becomes a member of Parliament;

Disqualification from membership.

PART IV

FINANCE

Remuneration of members. **11.** The Chairman or any member of the Board may be paid such remuneration out of the Fund of the Corporation as may be determined by the Minister.

Meetings of the Board. **12.** (1) The Chairman of the Board shall, if present preside at all meetings of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members to preside at such meeting.

(2) The quorum for any meeting of the Board shall be three members and the Board may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

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

Member to disclose any interest in contract proposed to be made by the Corporation.

13. A member who is directly or indirectly interested in any business transacted or proposed to be transacted by the Corporation shall disclose the nature of such interest at the meeting of the Board where such business is being discussed. The disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board with regard to that business, and shall withdraw from such meeting while such deliberation is in progress or such decision is being made.

Acts not invalidated by reason of a vacancy.

14. No act or decision or proceeding of the Board shall be invalidated by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.

The seal of the Corporation.

15. (1) The seal of the Corporation shall be in the custody of the Board.

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

(3) The seal of the Corporation shall not be affixed to any instrument of document except in the presence of two members of the Board who shall sign the instrument in token of their presence.

16. (1) The authorized capital of the Corporation shall be five million rupees of which a sum of two and a half million rupees shall be initially paid up by the Central Bank of Ceylon and the Insurance Corporation of Ceylon in equal proportion.

(2) On a resolution adopted by the Board, the balance authorized capital of two and a half million rupees shall be drawn by the Corporation from the Central Bank of Ceylon and the Insurance Corporation of Ceylon in equal proportion.

(3) The authorized and paid-up capital of the Corporation may be increased from time to time by such amount as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

(4) The amount of any increase in the capital referred to in subsection (3) shall be paid to the Corporation in such instalments as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

17. (1) At the request of the Minister, the Minister in charge of the subject of Finance shall guarantee the liability of the Corporation in respect of the insurance policies and guarantees issued by the Corporation up to such amount as may be determined by him. Government guarantee.

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may be paid out of the Consolidated Fund.

(3) In pursuance of a resolution of the Board, any portion of the amount of the guarantee provided under subsection (1) as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance may be drawn by the Corporation for the payment of any claim in excess of the minimum reserves of the Corporation in respect of any insurance policies and guarantees issued by the Corporation.

Maximum liability of the Corporation.

18. The maximum limit up to which the Corporation may undertake liability under the policies of insurance and guarantees issued by the Corporation shall be determined from time to time by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Fund.

19. (1) The Corporation shall have its own Fund.

- (2) There shall be paid into the Fund—
 - (a) any sum paid to the Corporation under sections 16 and 17 ;
 - (b) all sums received by the Corporation as premium in respect of the policies of insurance and guarantees issued by the Corporation;
 - (c) all grants of money received by the Corporation; and
 - (d) all sums of money including recoveries and charges received by the Corporation in the exercise, discharge and performance of its powers, functions and duties.

(3) There shall be paid out of the Fund—

- (a) all sums of money required for the discharge of the liabilities of the Corporation under the policies of insurance and the guarantees issued by the Corporation ; and
- (b) all sums of money required to defray any expenditure incurred by the Corporation in the exercise, discharge and performance of its powers, functions and duties.

Accounts and audit.

20. (1) The financial year of the Corporation shall be the calendar year.

(2) The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Corporation as though such Corporation were a public corporation within the meaning of that Act.

21. (1) The net profit of the Corporation in each year shall be exempt from income tax.

(2) The profits of the Corporation may be invested in such manner as the Corporation may determine with the approval of the Minister in consultation with the Minister in charge of the subject of Finance.

(3) No dividend shall be paid on the share capital of the Corporation.

22. (1) No person other than a Director or a person expressly authorized by the Board, shall sign and execute any documents required to be signed or executed by the Board in the exercise, discharge or performance of any powers, functions or duties conferred or imposed on or assigned to him by the Board under this Act.

Signature of documents by a Director on behalf of the Board.

(2) Receipts signed by the Directors or by any person expressly authorized by the Board to sign such receipts shall be an effectual discharge of the amounts paid to the Corporation,

PART V

STAFF OF THE CORPORATION

23. (1) The Chairman shall function as the Managing Director of the Corporation.

Chairman of the Board to function as the Managing Director of Corporation.

(2) The Chairman shall, subject to the general directions and control of the Board, be charged with the direction of the business of the Corporation, the organisation and the exercise, discharge and performance of the powers, functions and duties of the Corporation and the administrative control of the employees of the Corporation.

(3) The Chairman may, with the approval of the Board, whenever he considers it necessary to do so delegate in writing to any employee any power, function or duty, conferred or imposed on or assigned to him by this Act and such employee shall exercise, discharge and perform such power, function or duty subject to the general or special directions of the Chairman.

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Appointment of officers and servants.

24. (1) The Board may appoint such other officers and servants as it considers necessary for the efficient discharge of its functions.

(2) The officers and servants appointed under subsection (1) 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 Board.

(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 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 the provisions of subsection (2) of section 13 of the Transport Board Law 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, the provisions of subsection (3) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(6) Where the Corporation employs any person who has agreed to serve the Government for a specified period, any period of service to the Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

(7) At the request of the Corporation any member of the Local Government Service or any other officer or servant of a local authority, may, with the consent of such member, officer or servant of the Local Government Service Advisory Board, or the local authority, as the case may be, 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 on such terms and conditions including those relating to pension or

provident fund rights as may be agreed upon by the Corporation and the Local Government Service Advisory Board or that local authority.

(8) At the request of the Board any officer or servant of a public corporation may, with the consent of such officer or servant, 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 on such terms and conditions including those relating to pension and provident fund rights, as may be agreed upon by the Corporation and the said public corporation.

(9) Where any person is temporarily appointed to the staff of the Corporation in pursuance of subsection (7) or (8), such person shall be subject to the same disciplinary control as any other member of such staff.

25. All Directors, officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Directors, officers and servants of the Corporation deemed to be public servants.

26. 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.

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

PART VI

GENERAL

27. No Director, officer or servant of the Corporation shall be liable for any damage or loss suffered by the Corporation unless such damage was caused by his wilful act or default.

Liability for damage of loss suffered by the Corporation.

28. (1) No suit or prosecution shall

(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

Protection for action taken under this Act or on the direction of the Board.

(b) against any Director, 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.

(2) Any expenses 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 expenses 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 Corporation unless such expenses are recovered by him in such suit or prosecution.

Secrecy.

29. Every Director, employee or auditor of the Corporation shall, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Corporation and all matters relating to such transactions and shall by such declaration pledge himself not to reveal any such transaction or matter except—

- (a) when required so to do by the Board of Directors, a court of law, or the person to whom the transaction or matter relates;
- (b) in the performance of his duties; and
- (c) in order to comply with any of the provisions of this Act or any other written law.

Service of notices, &c.

30. Any notice, order or document required or authorized under this Act or any regulation made thereunder to be served on any person, may be served—

- (a) by delivering it to that person or by delivering it at the usual or last

known address of abode or business of that person in a cover addressed to such person ;

- (b) by sending it by registered post addressed to that person at his usual or last known place of abode or business.

31. (I) The Minister may make Regulations. regulations relating to all or any of the matters in respect of which regulations are required or authorized to be made.

(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 therein.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval- Every 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.

32. Any person who— offences.

- (a) contravenes any provision of this Act or of any regulation made thereunder; or
- (b) furnishes for the purposes of this Act any information which is, or any document the contents of which are, or any part of the contents of which is, to his knowledge untrue or incorrect; or
- (c) wilfully obstructs any officer of the Corporation in the performance of his duties under the provisions of this Act,

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 six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Cap.333] SRI LANKA EXPORT CREDIT INSURANCE CORPORATION

Transfer of assets and liabilities of Packing Credit Guarantee and Export Performance Guarantee Scheme to the Corporation.

33. All the assets, debts, liabilities and obligations of the Central Bank of Ceylon, acting as agent of the Government under the provisions of section 108 of the Monetary Law Act, in relation to the Packing Credit Guarantee Scheme and the Export Performance Guarantee Scheme operated by the Bank and subsisting on the 15th day of December, 1978, shall be transferred to the Corporation.

Contribution to share capital possible notwithstanding the provisions of the Insurance Corporation Act.

34. Notwithstanding anything to the contrary in the Insurance Corporation Act, the Insurance Corporation of Ceylon may contribute to the share capital of the Corporation.

This Act to operate notwithstanding the provisions of the Insurance Corporation Act.

35. Notwithstanding anything to the contrary in the Insurance Corporation Act, the Corporation shall carry on the insurance business specified in this Act.

36. Notwithstanding anything to the contrary in the Monetary Law Act, the Central Bank of Ceylon may contribute to the share capital of the Corporation.

This Act to operate notwithstanding the provisions of the Monetary Law Act.

37. (1) The Minister may by regulations made under this Act provide for the application to the Corporation, with or without any modifications of any provisions of the Companies Ordinance.*

Application of company law to the Corporation.

(2) The provisions of the Companies Ordinance,* other than the provisions of that Ordinance which are made applicable to the Corporation by regulations made under this Act, shall not apply to the Corporation.

38. The provisions of this Act shall have effect notwithstanding anything to the 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.

Provisions of this Act to prevail over other laws.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 228

SRI LANKA EXPORT DEVELOPMENT

Act
No. 40 of 1979.

AN ACT TO PROVIDE FOR THE CONSTITUTION OF THE SRI LANKA EXPORT DEVELOPMENT COUNCIL OF MINISTERS AND THE ESTABLISHMENT OF THE SRI LANKA EXPORT DEVELOPMENT BOARD; TO VEST THE SAID BOARD WITH POWERS NECESSARY FOR THE DEVELOPMENT OF SRI LANKA EXPORTS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[16th July. 1979.]

Shorttitle.

1. This Act may be cited as the Sri Lanka Export Development Act.

Sri Lanka Export Development Board, hereinafter referred to as the " Board ".

PART 1

CONSTITUTION OF THE EXPORT DEVELOPMENT COUNCIL OF MINISTERS

Constitution of the Export Development Council of Ministers.

2. (1) There shall be an Export Development Council of Ministers consisting of—

- (a) the President, who shall be the Chairman of the Council; and
- (b) the Ministers in charge of the subjects of Trade, Shipping, Industries, Agriculture, Plantation Industries, Textile Industries, Fisheries, Finance, Foreign Affairs, Planning and Rural Industries.

(2) The Export Development Council of Ministers shall, subject to any general or special directions given by the Cabinet of Ministers, be responsible for the formulation and implementation of national export development policies and programmes.

PART II

ESTABLISHMENT AND CONSTITUTION OF THE SRI LANKA EXPORT DEVELOPMENT BOARD

Establishment of the Sri Lanka Export Development Board.

3. (1) With effect from such date as may be fixed by the Minister by Notification published in the Gazette there shall be established a Board which shall be called the

(2) The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The head office of the Board shall be in Colombo.

(4) The Board may, with the prior approval of the Minister, establish and maintain any branch office or agency within or outside Sri Lanka.

4. (1) The Board shall consist of—

Constitution of the Board.

- (a) a Chairman and six other members all of whom shall be appointed by the Minister from among persons who appear to have had experience and shown capacity in industry, trade or finance, or in any other field connected with export development;
- (b) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Trade, nominated by that Minister ;
- (c) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Shipping, nominated by that Minister;
- (d) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Industries, nominated by that Minister;

- (e) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Agriculture, nominated by that Minister;
- (f) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Plantation Industries, nominated by that Minister;
- (g) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Textile Industries, nominated by that Minister;
- (h) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Fisheries, nominated by that Minister;
- (I) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Finance, nominated by that Minister;
- (j) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Foreign Affairs, nominated by that Minister;
- (k) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Planning, nominated by that Minister;
- (l) the Secretary or Additional Secretary to the Ministry of the Minister in charge of the subject of Rural Industries, nominated by that Minister; and
- (m) a member of the Greater Colombo Economic Commission, appointed by the Minister with the concurrence of the President.
- (2) Where two or more of the subjects specified in paragraphs (b) to (l) of subsection (1) are assigned to, or remain in the charge of, one Minister, then there shall be only one member nominated by that Minister in respect of such subjects.
- (3) A person shall be disqualified for appointment, or for continuing, as a member of the Board under paragraph (a) or (m) of subsection (1)—
- (a) if he is, or becomes, a Member of Parliament; or
- (b) if he is not, or ceases to be, a citizen of Sri Lanka.
- (4) The Chairman and the members appointed by the Minister under paragraphs (a) and (m) of subsection (1) shall, subject to the provisions of subsections (5) and (8), hold office for a term of three years but shall be eligible for reappointment.
- (5) The Minister may by Order published in the Gazette remove from office the Chairman or any member of the Board appointed under paragraphs (a) or (m) of subsection (1), without assigning any reason therefor and such removal shall not be called in question in any court:
- Provided, however, that the member appointed under paragraph (m) of subsection (1) shall not be removed from office under this subsection without the concurrence of the President.
- (6) In the event of the vacation of office by the Chairman or any other member of the Board appointed under paragraph (a) or (m) of subsection (1), 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 part of the term of office of the member whom he succeeds :
- Provided, however, that if such vacation of office or removal from office is by, or of, the member appointed under paragraph (m) of subsection (1), no appointment shall be made under this subsection without the concurrence of the President.
- (7) If the Chairman or any member of the Board appointed under paragraph (a) or (m) of subsection (1) 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 appoint some other person to act in his place as Chairman or as member;

Provided, however, that if the member so unable to discharge the duties of his office is a member appointed under paragraph (m) of subsection (1), no appointment shall be made under this subsection without the concurrence of the President.

(8) The Chairman or any member of the Board may at any time resign his office by letter to that effect addressed to the Minister.

(9) The Chairman or any member of the Board may be paid such remuneration out of the Fund of the Board, as may be determined by the Minister.

(10) The Board shall, in the exercise, performance or discharge of its powers, duties or functions under this Act, be subject to such general or special directions as may, from time to time, be issued by the Minister in consultation where necessary, with the other Ministers of Ministries represented on the Board.

Meetings of the Board, quorum and regulation of procedure.

5. (1) Meetings of the Board 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.

(2) The Chairman of the Board shall, if present, preside at all meetings of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members to preside at such meeting.

(3) At any meeting of the Board, seven members shall constitute a quorum.

(4) 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, shall be as determined by rules made by the Board.

Powers, &c. of the Chairman of the Board.

6. (1) The Chairman shall be the chief executive of the Board.

(2) The Chairman shall, subject to the general direction and control of the Board, 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 Chairman may, with the concurrence of the Board, delegate in writing to any 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, discharge or perform them subject to the general or special directions of the Chairman.

7. A member of the Board who has a direct or indirect pecuniary interest in any business transacted or proposed to be transacted by the Board shall disclose the nature of such interest at the meeting of the Board where such business is discussed. The disclosure shall be recorded in the minutes of the Board, and such member shall not take part in any deliberation or decision of the Board with regard to that business, and shall withdraw from such meeting while such deliberation is in progress or such decision is being made.

Disclosure of interest by members of the Board.

8. No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.

Acts not invalidated by reason of vacancy, &c.

9. (1) The Board may establish committees consisting of such number of persons, including persons who are not members of the Board, for the proper exercise, performance and discharge of its powers, duties and functions.

Power of the Board to establish committees.

(2) The Board may delegate to such committees such of its powers, duties and functions as may be determined by the Board.

(3) Every committee established under subsection (1) shall determine the quorum for and the procedure to be followed at the meetings of such committee.

10. (1) On the advice of the Board the Minister may by Order published in the Gazette, establish Advisory Committees that are oriented towards the development and promotion of specific products, product groups and commodities as well as the functional aspects of export trade.

Establishment of Advisory Committees.

(2) It shall be the function of each such Advisory Committee to advise the Board on any or all of the matters which the Minister considers necessary for the purposes of carrying out or giving effect to the principles and provisions of this Act.

(3) On the advice of the Board the Minister may appoint to each such Advisory Committee such number of members for such period and on such terms and conditions as he shall determine.

(4) Each such Advisory Committee shall have the power to fix and regulate its own procedure including the power to determine the number of members necessary to form a quorum at its meetings.

(5) A member may resign from office by letter to that effect addressed to the Minister.

(6) A member vacating his office by resignation or by the expiration of his period of office shall be eligible for reappointment.

(7) Where a member 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 another person to act in his place.

(8) The Minister may, if he considers it expedient to do so, remove, by Order published in the Gazette, any member of an Advisory Committee.

Seal of the Board.

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

(2) The seal of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board who shall sign the instrument or document in token of their presence.

PART III

POWERS AND FUNCTIONS OF THE BOARD

Powers and functions of the Board.

12. (1) The powers and functions of the Board shall be—

(a) to advise the Export Development Council of Ministers on the national

export development policy and programmes;

(b) to recommend to the Export Development Council of Ministers policies and measures on export-oriented investment;

(c) to recommend the adoption of trade agreements or negotiation of inter-country commercial policy, financial and other related arrangements that will facilitate the development of export from Sri Lanka;

(d) to formulate a national export development plan and programme for approval by the Export Development Council of Ministers;

(e) to monitor the implementation of the national export plan and programme and actively assist in the implementation of the plan ;

(d) to facilitate the development of supplies of export products;

(g) to administer the Export Development Fund and implement all programmes of assistance for export production and marketing in close co-operation with the various agencies of the Government and of trade and industry;

(h) to function as a focal point within the Government where exporters can deal with all export problems;

(i) to carry out export potential surveys related to Sri Lanka products;

(j) to carry out research and development on export products,

(k) to promote the export of professional and consultancy services from Sri Lanka in order to earn foreign exchange;

- (l) to promote and sponsor trading houses, engineering and development work and other activities abroad, that will enhance Sri Lanka's foreign exchange earnings;
- (m) to carry out feasibility studies on export-oriented projects and to undertake any special projects on export development on a pilot basis;
- (n) to promote and sponsor the establishment of joint export groups, export houses and other organizations;
- (o) to direct and co-ordinate the market development activities of trade representatives and trade agents abroad of Sri Lanka,
- (p) to act as implementing agency for technical co-operation in the field of export development with organizations and bodies outside Sri Lanka;
- (q) subject to limits and procedures laid down by the Minister in consultation with the Minister in charge of the subject of Finance,—
 - (i) to acquire shares, stocks or any other interest in any business enterprise incorporated in Sri Lanka or abroad and carrying on or proposing to carry on business in Sri Lanka or abroad ,
 - (ii) to lend money to any person or organization in Sri Lanka or abroad for the purpose of tradedevelopment;
- (r) without prejudice to the generality of the powers conferred on the Board by this Act, to carry out or provide general export services to all exporters, such as—
 - (i) trade information of current interest to producers and traders,
 - (ii) marketing research in foreign markets,
 - (iii) assistance in the development of. new products and in the adaptation of existing ones for export markets,
 - (iv) assistance in the initial stages of marketing a new product or entry into a new market, including test marketing exercises,
 - (v) organization of buyer-seller meetings in Colombo and in foreign locations,
 - (vi) export consultancy services,
 - (vii) assistance in participation in trade displays, trade fairs and other forms of trade promotion,
 - (viii) training courses in trade promotion and export marketing,
 - (ix) assistance in resolving the problems encountered by individual producers of exports or exporters,
 - (x) assistance in quality control standards, packaging, export credit and insurance,
 - (xi) assistance in import and export procedures and documentation;
- (s) to acquire and hold any movable or immovable property or dispose of any movable or immovable property acquired or held by it;
- (l) to levy fees or other charges for services or facilities provided by the Board;
- (u) to accept gifts, grants, donations or subsidies from both local or foreign sources whether in cash or otherwise and to apply them for carrying out any of the objects of the Board ;

(v) to recommend to the Minister, where there is no provision in that behalf in any existing law and the Board is of opinion that it is expedient to do so, the making of regulations under this Act in respect of the following matters—

(i) the regulation of the sale and export of export products, the arrangements and payments relating to shipping, freight, brokerage, warehouse or any other charges incurred in the sale of export products abroad ;

(ii) the regulation of the insurance, credit, quality control, standardization, packaging and internal transport of export products;

(iii) the regulation of the establishment and activities of joint export groups, export houses, and other organizations engaged in exports; and

(w) to do all such other acts or things which are connected with, or are in furtherance of, the exercise, performance and discharge of the powers, duties and functions of the Board under this Act or any other written law.

(2) Every decision made by the Board in the exercise of its powers under this Act shall be implemented by every Ministry represented on the Board :

Provided, however, that the Export Development Council of Ministers or the Cabinet of Ministers may vary any decision made by the Board.

PART IV

FINANCE

Export Development fund.

13. (1) There shall be established a fund to be called the Export Development (hereinafter referred to as " the Fund ")—

There shall be credited to the Fund—

(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 received by the Board in the exercise, performance and discharge of its powers, duties and functions ;

(c) all such sums of money as may be received by the Board by way of loans, donations, gifts, or grants from any sources whatsoever, whether in or outside Sri Lanka; and

(d) the proceeds of all cess imposed under this Act on imports or on any exports.

(2) There shall be paid out of the Fund all such sums of money required to defray any expenditure incurred by the Board in the exercise, performance and discharge of its powers, duties and functions.

(3) The initial development Fund of the Board shall be eighty million rupees. The amount of the initial Fund shall be paid 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 and such sums shall be credited to the Fund.

14. (1) There shall be charged, levied and paid a cess at such rates as may be determined by the Minister from time to time, with the concurrence of the Minister in charge of the subject of Finance, by Order published in the Gazette, on such imports and exports specified in the Order. Levy of cess on Imports and exports.

(2) The amount of cess imposed under this section may be varied or rescinded by a like Order.

(3) Every Order made by the Minister under this section shall come into force on the date of its publication in the Gazette or on such later date as may be specified therein, and shall be brought before Parliament for approval within four months

PART V

STAFF

of the date of its publication. Any such Order which is not so approved shall be deemed to be revoked as from the date of its disapproval, but without prejudice to the validity of anything previously done thereunder.

(4) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

(5) The proceeds of the cess recovered under this section shall be paid monthly by the Principal Collector of Customs to the credit of the Fund.

(6) The cess imposed under this section shall be in addition to any import duty or export duty or any other cess levied under any other written law.

Borrowing powers of the Board.

15. The Board may, with the consent of the Minister or in accordance with the terms of any general authority given by him, borrow temporarily, by way of overdraft or otherwise, such sums as the Board may require for meeting the obligations of the Board or discharging its duties under this Act:

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board under this section shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

Application of the provisions of the public corporations (financial control) Act.

16. The provisions of the Public Corporations (Financial Control) Act shall *mutatis mutandis* apply to the financial control of the Board.

Financial year of the Board.

17. The financial year of the Board shall be the calendar year.

Exemption from income tax.

18. There shall be exempt from income tax—

(a) the profits and income of the Board ;
and

(b) any sum paid by the Board to any person as a subsidy or grant out of the Fund.

Director-General of the Board.

19. (1) There shall be a Director-General of the Board appointed by the Minister for such period as may be determined by the Minister. The Director-General shall be the Secretary to the Board.

(2) The Director-General shall be remunerated in such manner and at such rates, and shall be subject to such terms and conditions of service, as may be determined by the Board.

(3) Where an officer in the public service is appointed as Director-General, the provisions of subsections (3), (4), (5) and (6) of section 20 shall, *mutatis mutandis*, apply to and in relation to him.

Appointment of officers, servants and agents.

20. (1) The Board may appoint such officers, servants and agents as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions.

(2) The officers, servants and agents 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 by the Board.

(3) At the request of the Board any officer in the public service may, with the consent of that officer and his appointing authority, 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, the provisions of subsection (2) of section 13 of the Transport Board Law shall *mutatis mutandis* apply to and in relation to him. Any such officer shall be entitled to the total remuneration including all allowances attached to the post he is appointed to in the Board, subject to statutory deductions and any other deductions approved by the Board.

(5) Where any officer in the public service is permanently appointed to the staff of the

Board, the provisions of subsection (3) of section 13 of the Transport Board Law shall *mutatis mutandis* apply to and in relation to him.

(6) 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 with the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

PART VI

GENERAL

Acquisition of immovable property under the Land Acquisition Act.

21. (1) Where any immovable 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 compulsorily acquired under the Land Acquisition Act and be transferred to the Board.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act shall be paid by the Board.

State properly, both movable and immovable, to be made available to the Board.

22. (1) Where any immovable property of the State is required for the purpose of any 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 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.

Directions of the Minister.

23. (1) The Minister may, from time to time, give the Board general or special directions as to the exercise of the powers and the performance of the duties of the Board and such directions shall be carried out by the Board.

(2) The Minister may, from time to time, direct in writing the Board to furnish him such information with respect to the property, business and activities of the Board, as he may require and the Board shall carry out every such direction.

24. It shall be lawful for the Chairman of the Board or any officer generally or specialty authorized by him to call for any information on the production, collection, processing or export of a product or commodity, from any person or organization.

Power to call for any information.

25. All members, officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Members, officers and servants of the Board deemed to be public servants.

26. 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.

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

27. (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

Protection for action taken under this Act or on the direction of the Board-

(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, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the Fund.

(3) Any expense incurred by any such person as is referred to in paragraph (A) 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 Fund, unless such expense is recovered by him in such suit or prosecution.

Secrecy.

28. Every member, officer, servant, agent or auditor of the Board shall, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Board and all matters relating to such transactions and shall by such declaration pledge himself not to reveal any such transaction or matter except—

- (a) when required so to do by the Board, a court of law, or the person to whom the transaction or matter relates;
- (b) in the performance of his duties; and
- (c) in order to comply with any of the provisions of this Act or any other written law.

Regulations.

29. (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 in respect of the following matters:—

- (a) where there is no provision in that behalf in any existing law, the sale and export of export goods, the arrangements and payments relating to shipping, freight, brokerage, warehouse or any other charges incurred in the sale of export products abroad;
- (b) where there is no provision in that behalf in any existing law, the insurance, credit, quality control, standardization, packaging and internal transport of export products,

(c) the establishment and activities of joint export groups, export houses, and other organizations engaged in exports;

(d) the provision of a scheme for the registration of exporters;

(e) any matter in respect of which regulations are authorized or required by this Act to be made.

(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 is deemed to be rescinded shall be published in the Gazette.

30. (1) The Board may make rules in respect of all or any of the matters for which rules are authorized or required by this Act to be made. Power of the Board to make rules.

(2) No rule made by the Board under this Act shall have effect until it has been approved by the Minister.

31. Every person who contravenes or fails to comply with any provision of this Act or of any regulation or rule made thereunder shall be guilty of an offence and shall, on conviction by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment. Offences.

CHAPTER 515

SRI LANKA EX-SERVICEMEN'S INSTITUTE

Law
No. 2 of 1973.

A LAW TO INCORPORATE THE SRI LANKA EX-SERVICEMEN'S INSTITUTE, TO PROVIDE AMENITIES OF CLUB LIFE TO PERSONS BELONGING TO THE SRI LANKA EX-SERVICEMEN'S ASSOCIATION OF COLOMBO, THE SRI LANKA ARMY, THE SRI LANKA NAVY AND THE SRI LANKA AIR FORCE, AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st July, 1973.]

Short title.

1. This Law may be cited as the Sri Lanka Ex-Servicemen's Institute Law.

resigns from office or becomes incapacitated from acting as a trustee, or if the person or body who appointed such trustee cancels such appointment at his or its discretion, another trustee shall be appointed in like manner to fill the vacancy.

Establishment and incorporation of the Sri Lanka Ex-Servicemen's Institute.

2. (1) There shall be established a body called the Sri Lanka Ex-Servicemen's Institute, hereafter in this Law referred to as "the Institute", consisting of nine trustees as hereinafter provided.

3. The objects of the Institute shall be—

Objects of the Institute.

(2) The Institute shall consist of nine trustees appointed as follows :—

(a) to provide the privileges of club life in the Institute for—

(a) one trustee appointed by the President to represent the Sri Lanka Army;

(i) members of the Sri Lanka Ex-Servicemen's Association;

(b) one trustee appointed by the President to represent the Sri Lanka Navy;

(ii) members of the Armed Forces of Sri Lanka; and

(c) one trustee appointed by the President to represent the Sri Lanka Air Force;

(iii) any other categories of persons, in the discretion of the trustees of the Institute;

(d) four trustees appointed by the Sri Lanka Ex-Servicemen's Association to represent that association; and

(b) to establish and maintain a main branch of the Institute at Colombo and subsidiary branches of the Institute at other places in Sri Lanka, in the discretion of the trustees of the Institute; and

(e) two trustees appointed by the Minister.

(c) to give assistance, whether by means of grants of money or otherwise, to clubs, associations and other similar institutions anywhere in Sri Lanka which, in the opinion of the trustees of the Institute, are conducted with the object, wholly or partly, of providing for the welfare of the members of the Armed Forces of Sri Lanka, or for the members of

(3) The Institute shall, by the name assigned to it in 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) If any trustee appointed under subsection (2) is absent from Sri Lanka for a period exceeding three months or dies or

the Sri Lanka Ex-Servicemen's Association, or categories of persons referred to in sub-paragraph (iii) of paragraph (a).

any law, or by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and may, subject to any trust affecting the same, sell, mortgage, lease, exchange or otherwise deal with the same for such purposes as aforesaid.

Management and control by the Institute.

4. The trustees of the Institute shall be responsible for the entire control and management of the Institute, including all the branches thereof, and shall have the power to make such rules as they deem fit for the purposes of such control and management.

7. In this Law, unless the context otherwise requires, " Armed Forces of Sri Lanka " means—

Interpretation.

The Institute not to make distinction of colour, religion, &c.

5. The Institute shall be maintained without any distinction of colour, race or religion.

(a) the Sri Lanka Army; or

The Institute to have power to hold property, accept gifts, &c.

6. The Institute may, for the purposes of this Law, take and hold any property, movable or immovable, which may become vested in it by virtue of the provisions of

(b) the Sri Lanka Navy; or

(c) the Sri Lanka Air Force.

SRI LANKA FRUIT BOARD

Law
No. 30 of 1973.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA FRUIT BOARD; TO MAKE PROVISION FOR THE CO-ORDINATION OF THE FRUIT INDUSTRY AND FOR THE PRODUCTION, MARKETING AND EXPORTATION OF THE PRODUCTS OF THE FRUIT INDUSTRY.

[6th August, 1973.]

Short title.

1. This Law may be cited as the Sri Lanka Fruit Board Law.

subject of Trade, from among the officers of that Minister's Ministry;

PART I

ESTABLISHMENT OF THE SRI LANKA FRUIT BOARD

Establishment of the Sri Lanka Fruit Board.

2. There shall be established, in accordance with the provisions of this Law, a Board which shall be called and known as the Sri Lanka Fruit Board, hereinafter referred to as " the Board ".

(ii) one member nominated by the Minister in consultation with the Minister in charge of the subject of Planning from among the officers of that Minister's Ministry;

The Board to be a body corporate.

3. (1) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

(iii) one member nominated by the Minister in consultation with the Minister in charge of the subject of Agriculture from among the officers of that Minister's Ministry;

(2) The Board shall have the power to acquire, hold, take or give on lease, mortgage or hire or set! or otherwise dispose of any movable or immovable property.

(iv) one member nominated by the Minister in consultation with the Minister in charge of the subject of Plantations from among the officers of that Minister's Ministry;

Members of the Board.

4. (1) The Board shall consist of the following members:—

(v) one member nominated by the Minister in consultation with the Minister in charge of the subject of Industries from among the officers of that Minister's Ministry;

(a) two *ex officio* members, namely—

(i) the Commissioner of Marketing Development; and

(ii) the Commissioner of Co-operative Development;

(2) A person shall be disqualified for appointment or for continuing as a member of the Board—

(b) five nominated members, nominated as follows:—

(a) if he is a Member of Parliament; or

(i) one member nominated by the Minister in consultation with the Minister in charge of the

(b) if he, directly or indirectly, by himself or by any other person on his behalf holds or enjoys any right or benefit under any contract made by or on behalf of the Board ; or

(c) if he has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member.

(3) (a) Where a member nominated under paragraph (b) of subsection (1) dies or resigns or is removed from office, the Minister may, having regard to that paragraph of that subsection, nominate any fit person to act in his place.

(b) Any member nominated 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 member whom he succeeds.

(4) Where a member nominated under paragraph (&) 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.

5. (1) Every member nominated under paragraph (b) of subsection (1) of section 4 shall, unless he vacates office earlier by death, resignation or removal, hold office for a period of three years.

(2) Every *ex officio* member shall hold office so long as he holds the post by virtue of which he was appointed a member.

6. (1) The Minister may, if he considers it expedient to do so, remove, by Order published in the Gazette, any member nominated under paragraph (b) of subsection (1) of section 4.

(2) A member 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 under subsection (1) shall not be called in question in any court.

7. A member, other than an *ex officio* member, may at any time resign his office by letter addressed to the Minister.

8. Any member who vacates his office, other than a member who is removed from

office under section 6, shall be eligible for reappointment.

9. No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy among its members or defect in the appointment of any member thereof,

10. 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.

11. (1) The Minister shall appoint a Chairman of the Board from among the members of the Board.

(2) The Chairman of the Board shall be its chief executive officer and shall preside at all meetings of the Board. In the event of his absence from any meeting, the members of the Board present at such meeting shall elect one of their number to preside at such meeting.

(3) If the 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 any other member of the Board to act in his place.

(4) The Minister may, without assigning any reason, terminate the appointment of the Chairman. The termination of the appointment of the Chairman shall be final and conclusive, and shall not be called in question in any court.

(5) The Chairman of any meeting of the Board shall, in addition to his own vote, have a casting vote.

(6) The Chairman may resign the office of Chairman by letter addressed to the Minister.

(7) Subject to the provisions of subsection (4) and subsection (6) the term of office of the Chairman shall be the period of his membership of the Board.

12. Subject to the other provisions of this Law, the Board may regulate its procedure in regard to the meetings of the

Acts or Proceedings of deemed not to be invalid by reason of any vacancy or defect in the appointment of a member. Remuneration of members.

Chairman of the Board.

Meetings of the Board

Term of office of members,

Power of Minister to remove from office a member.

Resignation of members,

Eligibility for reappointment as member.

Board and the transaction of business at such meetings.

Seal of the Board.

13. (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 seal of the Board shall not be affixed to any instrument except in the presence of two members of the Board both of whom shall sign the instrument in token of their presence.

Officers and servants of the Board deemed to be public servants

14. 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.

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

15. 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

POWERS AND FUNCTIONS OF THE BOARD

Powers and function, of the Board.

16. (1) The Board shall have the power to do all such acts and take all such steps as may be necessary for or incidental to the performance of its functions.

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Board may exercise all or any of the following powers :—

- (a) the regulation and control of the extent and location of any land that may be used for the cultivation of fruit;
- (b) the regulation and control of cultivation practices and the grading of different varieties of fruit;
- (c) the regulation and control of the technical standards that have to be maintained in any factory that is or has been established for the manufacture, processing or canning of any fruit or fruit product and the laying down of the standards of

quality for the products of any such factory;

- (d) the regulation and control of the methods of manufacture, processing or canning of fruit in manufacturing, processing or canning factories and the regulation and control of the location of any such factory;
- (e) the control and direction of the marketing, distribution and sale of any fruit or fruit product both within and outside Sri Lanka;
- (f) the granting of assistance whether financial or otherwise to any registered co-operative society, State-sponsored Corporation*, Government Department, or any person or body of persons (whether corporate or not) engaged in the cultivation, marketing or processing of any fruit or fruit product;
- (g) the creation and promotion of foreign markets for the export of fruit and fruit products of Sri Lanka and the advertisement of such fruit products in foreign countries;
- (h) the manufacture of canned fruit and fruit products for purposes of export and the establishment of trading centres for any such purposes both within and outside Sri Lanka;
- (i) all activities connected with the cultivation of fruit by the Board and the establishment of factories for the processing and canning of such fruit; and
- (j) the establishment, of its own departments, agencies, laboratories, experimental and research stations and farms.

17. (1) The Board may direct the owner of any factory for the manufacture, processing or canning of any fruit or fruit product in the process of construction or the

Board may give directions.

* Presumably a reference to a Government-Sponsored Corporation.

owner of any factory to which repairs are being effected to purchase any or all his requirements of plant, machinery or fixtures from such sources as the Board may recommend.

(2) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence under this Law.

Board to authorize establishment of plant or factory.

18. (1) No plant or factory for the manufacture, processing or canning of any fruit or fruit product shall be established in Sri Lanka except with the prior sanction of the Board.

(2) The Board may provide for the registration and licensing of any plant or factory that may be used for the manufacture, processing or canning of any fruit or fruit product in such form and in such manner as may be prescribed by regulations made under this Law.

Powers of inspection by the Board.

19. (1) The Board may authorize in writing either generally or specifically any member of the staff of the Board to enter at any reasonable hour and to inspect:—

- (a) any plant, factory or premises which is, or may be, used for the manufacture, processing or canning of any fruit or fruit product; or
- (b) any orchard or farm where any fruit is being cultivated or is being prepared for cultivation.

(2) Any person who without reasonable cause hinders or obstructs any such member so authorized by the Board in the exercise of his powers under subsection (1) shall be guilty of an offence under this Law.

Board may request information.

20. (1) The Board may at any time request in writing any grower, collector, dealer, manufacturer, processor, canner, wholesaler or retailer of fruit or any fruit product to furnish within a specified period of time all or any of the following information:—

- (a) any information relating to the varieties of fruit that are being cultivated, the extent of land used for such cultivation and the

methods of cultivation, harvesting or grading of such fruit;

(b) any information relating to the transportation of fruit or to the rates or charges levied or leviable for such transportation;

(c) any information relating to the machinery used in any plant or factory where any fruit or fruit product is being manufactured, processed or canned or any information relating to the operational costs, finances, sales or the employment of labour in such plant or factory ; and

(d) any information relating to the purchase, sale, marketing, storage, import or export of any fruit product or the use of any raw material employed in the manufacture of such fruit product.

(2) Any information furnished under this section 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) Any person who fails, without reasonable cause, to comply with the provisions of subsection (1), or who furnishes information under subsection (2) knowing such information to be false, shall be guilty of an offence under this Law.

(4) All information obtained by the Board under subsection (2) shall be treated as confidential by the members of the Board and by every officer and servant thereof, except where the disclosure or publication of any such information is made with the consent in writing of the person from whom such information was 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 of any legal proceedings thereunder or for the purposes of statistics of facts and figures which makes no reference to any particular individual or business.

(5) Any person who fails to comply with the provisions of subsection (4) shall be guilty of an offence under this Law.

Board may establish agencies. &c

21. The Board may establish such departments or agencies and may establish, maintain and operate such laboratories, experimental and research stations and farms as may be necessary in the exercise, discharge and performance of its powers, functions and duties.

Fruit cess.

22. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, by Order, charge or levy in addition to any tax or export duty imposed under any other written law, a cess called the fruit cess in respect of any fruit or fruit product, in such manner and of such amount as the Minister may from time to time determine.

(2) This section shall have effect as though it formed part of the Customs Ordinance and the provisions of that Ordinance shall apply, *mutatis mutandis*, in so far as the cess is levied at the point of export.

(3) The proceeds of the fruit cess shall be paid to the Board.

(4) The Minister may make regulations in respect of all matters necessary for the effective levy and collection of the fruit cess.

Certificate of quality.

23. (1) On or after a date to be declared by the Minister by Notification in the Gazette no fruit or fruit product shall be exported from Sri Lanka except on a certificate of quality issued by the Board.

(2) A certificate of quality in terms of subsection (1) shall not be issued by the Board unless the product in question conforms to the standard of quality laid down for such product by the Board.

(3) Where the Board issues a certificate of quality in respect of any fruit or fruit product such certificate shall be a guarantee that such product meets with the standard of quality required to be maintained by the Board and such certificate shall be conclusive proof of the Board's satisfaction with the quality of such product.

(4) Regulations may be made—

(a) prescribing the form and manner of issue of the certificate of quality and the standard of quality required to be maintained in respect of any fruit or fruit product; and

(b) in respect of any matter required or necessary to give effect to this section.

PART III

FINANCE AND STAFF OF THE BOARD

24. (1) The Board shall have its own Fund of the Fund. There shall be credited to the Fund of ^{Board-} 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 received by the Board as proceeds of the fruit cess;

(c) all such sums of money received by the Board in the exercise, discharge and performance of its powers, duties and functions-

(2) 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 powers, duties and functions under this Law or any other written law.

(3) 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.

25. 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.,

Financial year of the Board.

26. The financial year of the Board shall be the calendar year.

Staff of the Board.

27. (1) The Board may appoint, transfer, dismiss and exercise disciplinary control over the staff of the Board.

(2) The Board may, in consultation with the Minister—

- (a) fix the wages or salaries or other remuneration of the staff of the Board ;
- (h) determine the terms and conditions of the employment of such staff; and
- (c) establish and regulate provident funds and schemes for the benefit of such staff, and make contributions to any such fund or scheme.

Appointment of public officers to the staff of the Board.

28. (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 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.

(3) 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.

PART IV

GENERAL

Regulations.

29. (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 ;
- (h) prescribing the fee for registration or for the issue of any certificate under this Law;
- (c) the furnishing of any information to the Board under section 20 ;
- (d) the inspection, supervision, regulation and control of any plant or factory used for the manufacture, storage, processing or canning of any fruit or fruit product;
- (e) the purchase of any plant, machinery or fixtures by the owner of any plant or factory used or to be used for the manufacture, processing or canning of any fruit or fruit product.

(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 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 its disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is so deemed to be rescinded shall be published in the Gazette.

(5) Any person who contravenes the provisions of any regulation made under this Law shall be guilty of an offence under this Law.

* Repealed by Law No. 19 of 1978.

Acquisition of immovable property under the Land Acquisition Act by the Board.

30. (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.

(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.

Special grant or lease of State property to the Board,

31. Where any immovable property of the State is required for any 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.

Protection for action taken under this Law or on the direction of the Board.

32. (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 or servant of the Board for any act which is done or purported to be done in good faith under this Law 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 (h) 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.

33. If in the operation of this Law, any case shall arise in which, in the opinion of the Minister, substantial hardship is likely to be caused to any person by reason of an unintentional failure on the part of such person to observe any formality prescribed by this Law or by any regulations made thereunder, the Minister may give such directions as may be necessary to mitigate or prevent such hardship.

Minister's power to mitigate hardship.

34. Every person who commits an Offences. offence under this Law shall, or conviction after summary 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 such fine.

35. In this Law, unless the context interpretation. otherwise requires:—

" factory " means any premises where the transformation of fresh fruit into any fruit product is carried out by manual, mechanical or chemical means but shall not include any premises where such transformation takes place purely for domestic or private consumption;

" fruit" for the purposes of this Law means any fruit specified by the Minister by Order published in the Gazette;

" fruit product" means any product obtained from fruit by manual, mechanical or chemical means or any by-product obtained from any such product;and

" marketing" includes packing and grading of fruit or any fruit product.

CHAPTER 212

SRI LANKA INVENTORS INCENTIVES*

Ail
No. 53 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A PUBLIC AUTHORITY CALLED
THE SRI LANKA INVENTORS COMMISSION AND FOR THE PROMOTION AND
ENCOURAGEMENT OF SRI LANKA INVENTIONS AND THEIR MANUFACTURE AND
OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Not in operation on 31st December, 1980.]

Short title and
date of
operation.

1. This Act may be cited as the Sri Lanka Inventors Incentives Act, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette* (in this Act referred to as the "appointed date").

specially qualified in relation to some aspect of the work of the Commission may be temporarily appointed to the Commission.

Establishment
of the
Commission.

2. There shall be established on the appointed date an authority which shall be called the Sri Lanka Inventors Commission (hereafter in this Act 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.

(4) A person shall be disqualified from being appointed or from continuing as a member of the Commission if he is a Member of Parliament.

5. (1) Subject to the provisions of section 6 the term of office of the members of the Commission shall be three years :

Term of office
of members.

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 corporate name.

Provided that a member 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.

(2) Any member of the Commission vacating office by effluxion of time shall be eligible for re-appointment.

Members
of the
Commission.

4. (1) The Commission shall consist of a Commissioner and two Assistant Commissioners appointed by the Cabinet of Ministers on the recommendation of the Minister.

6. (1) A member of the Commission may resign from the Commission by letter addressed to the Minister.

Resignation or
removal of
members.

(2) Such Commissioner or Assistant Commissioner shall be a citizen of Sri Lanka and an inventor with one or more inventions registered as such with the Registrar of Patents of Sri Lanka.

(2) All members of the Commission shall hold office during good behaviour and may be removed from office by the Cabinet of Ministers.

(3) Where in the opinion of the Cabinet of Ministers there is no person suitably qualified for appointment to the Commission a person who has distinguished himself in science or industry or is otherwise

(3) Where a member is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Cabinet of Ministers may subject to section 4 appoint some other person to act as a member in his place.

* Not in operation on 31st December, 1980.

Remuneration of members of the Commission.

7. 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.

(b) to grant financial aid to inventors to enable them to develop, perfect and produce their patented inventions or (those which are pending patent, under such terms and conditions as may be specified by the Commission;

Members to disclose interest in any decision to be made by the Commission.

8. 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 in writing 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.

(c) to render legal assistance to inventors by representing them in filing their patent applications in Sri Lanka or abroad and by protecting their secured patents from infringement in patent cases, under such terms and conditions as may be specified by the Commission;

Commission may act despite vacancy.

9. No act or proceeding of the Commission shall be declared invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any of its members.

(d) to recommend to government lending institutions inventions that are beneficial to Sri Lanka so as to enable such institutions to give long-term loans to inventors to manufacture their inventions, with only their patents, as security, the amount of any such loan to be granted depending upon the importance and market of their inventions as determined by the Commission;

Objects of the Commission.

10. The objects of the Commission shall be—

(a) to encourage the making or creation of inventions by citizens of Sri Lanka;

(e) to help inventors find markets for their inventions in Sri Lanka and abroad,

(b) to give technical, financial and legal assistance to inventors,

(c) to exercise, discharge and perform all the powers, functions and duties conferred or imposed on such Commission under this Act; and

(d) to do all such other acts or things as may be necessary for, or conducive to, the attainment of the objects specified in paragraphs (a), (b) and (c) of this section.

(f) to encourage Sri Lankan inventors to make known their inventions by giving annually sizeable cash awards and medals to be known as the "Presidential Awards for Inventions" to patented inventions in Sri Lanka in the fields of agriculture, chemistry, medicine, national defence, pharmacy, physics, public safety and welfare, public works, transportation and such other fields of science and technology. Such awards shall be open to all inventors in Sri Lanka without distinction as to nationality;

Powers, functions and duties of the Commission.

11. (1) The Commission shall have the following powers, functions and duties :—

(a) to give technical assistance to inventors after examination of their inventions to determine their patentability and to help them prepare patent applications, under such terms and conditions as may be specified by the Commission;

(g) to establish and maintain a public research laboratory and experimental station where authorized inventors and researchers

may avail themselves of its facilities and services for carrying out or perfecting their approved inventions and researches;

- (h) to promote and encourage inventiveness and creativeness among people in Sri Lanka and to assist them in creating new inventions in those fields of science and technology specified in paragraph (f) through an annual "Creative Research Contest" with cash prizes and medals to the winners chosen by the respective judges of the "Presidential Awards for Inventions";
- (i) to publish and disseminate information about inventions, researches and science in general;
- (j) to hold regular monthly sessions for the exchange of ideas among inventors ;
- (k) to help Sri Lankan inventors join international competitions for inventions and researches, or to recommend them to such competitions; and
- (l) to organize creative societies in schools, colleges and universities to promote and encourage creativeness among Sri Lankan youth.

(2) For the purpose of giving annually the cash awards and medals specified in paragraph (f) of subsection (1), the President shall appoint a panel of judges, consisting of three distinguished persons in the respective fields of endeavour, referred to in that paragraph.

Conditions under which facility or service is given to inventor or researcher.

12. The inventor or researcher shall by written agreement before making use of the facilities provided by the Commission under paragraphs (a), (6), (c) and (g) of subsection (1) of section 11, contract to give the Commission not less than one-tenth of all royalties arising from such inventions or research, depending upon the extent of the facilities or services to such inventor or researcher to maintain the public research laboratory or experimental station.

Laboratory facilities.

13. The laboratory facilities and services of the Ceylon Institute of Scientific and Industrial Research or any other government research institution, shall be made available to inventors or researchers who may need the

same as recommended by the Commission. All expenses incurred by any such institution in making available laboratory facilities to the Commission shall be chargeable to the Commission.

14. All functions relating to the promotion and development of inventions conferred upon any person or body of persons corporate or unincorporate by any written law are hereby transferred to the Commission which shall hereafter exercise those functions.

Transfer of functions relating to promotion and development of inventions to the Commission.

15. (1) The Commission may make rules for the proper administration of the affairs of the Commission, for the regulation of employment of the staff of the Commission and generally for the exercise and performance of its powers and duties under this Act.

Power to make rules-

(2) No rule made by the Commission shall have effect until it has been approved by the Minister.

16. (1) Where any immovable property is required to be acquired for any purpose of the Commission 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 Commission.

Acquisition of immovable property for the purpose of the Commission.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Commission shall be paid from the Fund.

17. Where any immovable property of the Republic is required for the purpose of the Commission, 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 Commission.

Special grant or lease of property belonging to the Republic to the Commission.

18. Any body of persons, corporate or unincorporate or any local authority 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 Commission as may be necessary for the performance of the duties and the exercise of the powers of the Commission.

Power of bodies of persons or local authority to enter into contracts with the Commission.

Proclamation for action taken under this Act or on the direction of the Commission.

19. (1) No suit or prosecution shall lie—

- (a) against the Commission for any act which in good faith is done or is purported to be done by the Commission under this Act; or
- (b) against any member, officer, servant or agent of the Commission for any act which in good faith is done or is purported to be done by him under this Act or on the direction of the Commission.

(2) Any expense incurred by the Commission in any suit or prosecution brought by or against the Commission before any court shall be paid out of the Fund, and any costs paid to, or recovered by the Commission in any such suit or prosecution shall be credited to the 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 which is done or is purported to be done by him under this Act or on the direction of the Commission shall, if the court holds that such act was done in good faith, be paid out of the Fund, unless such expense is recovered by him in such suit or prosecution.

No writ to issue against the person or property of a member of the Commission.

20. No writ against the person or property of a member of the Commission shall be issued in any action brought against the Commission.

Administration and staff.

21. (1) The Commission shall have the following divisions for the purpose of its administration:—

- (a) Patent Examining Division ;
- (b) Research Division;
- (c) Legal Division;
- (d) Evaluation and Financing Division ;
- (e) Administration Division ; and
- (f) other Divisions that the Commission, with the approval of the Minister, may deem necessary to create.

(2) The Commission shall have the power to appoint or employ such technical, administrative and other personnel as may be necessary to carry out the functions of the Commission.

22. (1) There shall be established a Fund of the Commission called the Sri Lanka Inventors Fund (in this Act referred to as " the Fund ") which shall be managed, controlled and operated by the Commission in accordance with such directions as the Minister may give from time to time.

(2) There shall be paid into the Fund—

- (a) any gifts or donations of money made to the Commission by any person, or by the Government;
- (b) any grant received from the Government under section 23 ;
- (c) any income from investments or any other moneys received by the Commission; and
- (d) any moneys received by way of royalties.

(3) There shall be paid out of the Fund—

- (a) all expenses incurred in the establishment, maintenance and working of the Commission;
- (b) the salaries of officers and servants of the Commission; and
- (c) such other payments as are approved by the Commission as being necessary for the purpose of carrying out the objects of the Commission.

23. The Government shall grant or give on loan to the Commission out of the Consolidated Fund for the purpose of carrying out the aims and objects of the Commission such sums as may be voted by Parliament for the purpose, Annual grant by the Government to the Commission.

24. (1) The Commission shall be exempt from any income tax, wealth tax or other tax payable under the Inland Revenue Act (No. 28 of 1979). Exemption of Commission and donors from certain duties and taxes.

(2) All goods imported for the purpose of giving effect to the objects and purposes of the Commission under the provisions of this Act, shall be exempt from the payment of any custom duty, if the Minister in consultation with the Minister in charge of the subject of Finance approves the importation of such goods.

(3) Any instrument containing any agreement between the Commission and any other person providing for the payment by such person to the Commission of any sum as a donation shall be exempt from the payment of stamp duty.

(4) The amount of any donation made to the Commission by any person in the year preceding any year of assessment shall, for the purpose of computing his taxable income for that year of assessment under the Inland Revenue Act, (No. 28 of 1979), be deducted from his assessable income, and the making of such donation shall be deemed not to be a taxable gift for the purpose of that Act.

(5) The provisions of this section shall have effect notwithstanding anything to the contrary in the Inland Revenue Act (No. 28 of 1979) and the Customs Ordinance.

Exemption of inventors form tax,

25. (I) Where a patent has been granted to any citizen of Sri Lanka in respect of any invention approved by the Commission then, subject to the provisions hereinafter contained, the income received by the holder of such patent from royalties or otherwise in respect of such patent shall not be liable to any income tax, wealth tax or other tax payable under the Inland Revenue Act (No. 28 of 1979) for a period of five years from the date of the grant of the patent, and the holder of such patent shall be exempt from all licences or permits required to be obtained under any written law.

(2) The preceding provisions of this section shall apply only to the holders of a patent—

(a) where the paid-up capital consequent to the use of such patented invention does not exceed one million rupees; and

(h) where the manufacture in pursuance of such patented invention is carried out by the inventor himself as a home industry.

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.

27. (1) The Auditor-General shall audit the accounts of the Commission at such intervals not exceeding a period of twelve months as the Commission may decide. Duties of 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 Commission. 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 Commission 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 Commission and ascertain the correctness of the balance sheet and report to the Commission—

(a) whether or not he has obtained all the information and explanations required by him ; 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 Commission's affairs according to the best of his information and explanations given to him and as shown by the books of the Commission.

(5) 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.

28. 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 Commission, and the Commission shall give effect to such directions.

Power of Minister to give special or general directions to the Commission.

29. All officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Commission deemed to be public servants-

30. 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.

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

CHAPTER 201

SRI LANKA INSTITUTE OF MARKETING

Act
No. 41 of 1990.

AN ACT TO INCORPORATE THE SRI LANKA INSTITUTE OF MARKETING.

[15th October. 1980.]

Short title.

1. This Act may be cited as the Sri Lanka Institute of Marketing (Incorporation) Act.

(e) to suggest and promote legislative action in the sphere of Marketing to serve the best interests of the country; and

Incorporation of the Sri Lanka Institute of Marketing.

2. From and after the date of commencement of this Act, such and so many persons as now are members of the Sri Lanka Institute of Marketing (hereinafter referred to as "the Institute"), 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 Sri Lanka Institute of Marketing", 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.

(f) to promote, maintain, and uphold professional and ethical principles and standards in the practice of Marketing in Sri Lanka;

Provided, however, that the Corporation shall not support any object or endeavour to impose on, or procure to be observed by, its members or others any regulation, restriction or condition which, if it were an object of the Corporation, would make it a trade union;

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

And provided further that the Corporation shall not support any object of a political, religious or racial nature.

- (a) to foster the development, growth and wider acceptance of Marketing as a part of management in Sri Lanka;
- (b) to provide a professional forum for its membership;
- (c) to contribute, within the area of its professional competence, to the economic growth of the country;
- (d) to advise and assist on the formation, implementation, and appraisal of national policies on any matters connected with Marketing both in Sri Lanka and abroad;

4. The principal functions of the Corporation shall be :—

Functions of the Corporation.

- (a) to organise lectures, discussions and seminars on subjects of interest to its membership;
- (b) to promote and assist the study of Marketing at Universities and other institutions of higher education ;
- (c) to conduct examinations and to issue, by arrangement with any University established or deemed to be established under the Universities Act and the concurrence of the University Grants Commission established under that Act, certificates or diplomas;

- (d) to encourage and where possible organize for its membership to undertake studies on subjects within the particular interest of the Corporation and where feasible arrange for the publication of such studies;
- (e) to establish, foster and maintain relations with associations with similar or allied interests, both in Sri Lanka and abroad ;
- (f) to encourage and promote unanimity of opinion and action amongst members on all matters pertaining to the objects of the Corporation; and
- (g) to promote the objects of the Corporation by any other means which the Corporation may decide.

one year a Consultative Council, consisting of not more than five persons distinguished in Marketing or in a related field. The Executive Committee may, in its discretion, seek the views and advice of the Consultative Council, but it shall in no way be bound to accept or execute any such advice.

(3) The Executive Committee shall have the power to appoint Special Committees for such purposes as it may determine.

(4) The first Executive Committee of the Corporation shall be the Executive Committee of the Institute holding office on the date of commencement of this Act.

7. (1) It shall be lawful for the Rules of 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 classification of members and of their entitlement to vote at meetings, for the conduct of the duties of the Executive Committee and of the various officers, agents and servants of the Corporation, for the procedure to be followed 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).

(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 the majority of; the members entitled to vote.

(3) The Executive Committee shall have power to make, alter or revoke by-laws, from time to time, for carrying out the objects of the Corporation, provided such by-laws are not inconsistent with the rules in force for the time being of the Corporation.

(4) The rules and by-laws of the Institute in force on the date of the commencement of this Act shall be deemed to be the rules and by-laws of the Corporation made under this section.

General powers of the Corporation.

5. 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, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation.

Executive Committee.

6. (1) The affairs of the Corporation shall be administered by an Executive Committee consisting of—

- (a) the Council of Management comprising the President, the two Vice-Presidents, the Honorary Secretary, the Honorary Assistant Secretary and the Honorary Treasurer; and
- (b) ten other members,

to be elected or nominated, as the case may be, in accordance with the rules for the time being in force of the Corporation.

(2) The Executive Committee may nominate, if it so desires, for the period of

(5) The members of the Corporation shall be subject to the rules of the Corporation.

for any other purpose, be liable to make any contribution exceeding the amount of such subscription as may be due from him to the Corporation.

Debts due by and payable to the Institute.

8 All debts and liabilities of the Institute existing on the date of commencement of this Act shall be paid by the Corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to, the Institute on the said date shall be paid to the Corporation.

12. If upon the dissolution of the Corporation there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, such property shall not be distributed among the members of the Corporation, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Corporation, and which is or are by the rules thereof prohibited from distributing any income or property among its or their members. Such institution or institutions shall be determined by the members of the Corporation at or immediately before the time of the dissolution of the Corporation. In the event of there being no successor institution or institutions determined by the members of the Corporation, the assets will be administered by a Board of Trustees appointed for the purpose by the Executive Committee prior to dissolution. The Board of Trustees so appointed will have power to dispose of the assets to settle all debts or liabilities, if any. The remaining assets shall, in the absence of any specific instructions, be handed over to the Public Trustee. In the event of a sudden dissolution without the prior appointment of a Board of Trustees as provided for above, all the assets will devolve on the Public Trustee, who is hereby empowered to apply them to some charitable object in the field of marketing education.

Property remaining on dissolution.

Power of Corporation to hold property.

9. The Corporation shall be able and capable in law to acquire and hold either as beneficial owner or trustee or otherwise 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 purpose of this Act and subject to the rules for the time being of the Corporation, or otherwise for the purposes of and upon the trusts and subject to the conditions in the relative instrument of disposition contained, with full power (subject always to the provisions of any written law relating to trusts and of the relative instrument of disposition) to sell, mortgage, lease, exchange or otherwise dispose of, encumber or charge the same.

Seal of the Corporation.

10. The seal of the Corporation shall be in the safe custody of the Council of Management and shall not be affixed to any instrument whatsoever except with the authority of the Executive Committee previously obtained and in the presence of two members of the Council of Management 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.

Limitation of liability of members.

11. No member of the Corporation shall, for the purpose of discharging the debts and liabilities of the Corporation, or

13. Nothing in this Act 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 Act and those claiming by, from or under them.

Saving of the rights of the Republic and others.

CHAPTER 494

SRI LANKA LIBRARY ASSOCIATION

Law A LAW TO INCORPORATE THE SRI LANKA LIBRARY ASSOCIATION.
 No. 20 of 1974.

[27th June. 1974.]

Short title. **1.** This Law may be cited as the Sri Lanka Library Association (Incorporation) Law.

Incorporation of the Sri Lanka Library Association. **2.** The persons who, at the time of the coming into operation of this Law, are members of the Sri Lanka Library 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 Sri Lanka Library Association". The Corporation may sue or be sued by that name.

Membership of the Corporation. **3.** (1) All persons, institutions and associations engaged in library work or providing library and bibliographical services or interested in promoting libraries, library services and librarianship shall be eligible to be members of the Corporation.

(2) The terms and conditions of membership and the admission and enrolment of members shall be determined by the rules of the Corporation.

Objects of the Corporation. **4.** The objects of the Corporation shall be—

- (a) to promote the establishment, extension and improvement of library services in Sri Lanka and to set up professional standards ;
- (b) to unite all those engaged in, or interested in, library work by holding conferences and meetings for the discussion of bibliographical questions and matters affecting libraries;

(c) to safeguard and promote the interests, welfare, rights and privileges of the members of the profession of librarians in Sri Lanka.

(d) to train librarians and to conduct professional examinations in librarianship and to issue certificates of proficiency;

(e) to promote greater co-ordination and co-operation between libraries in Sri Lanka;

(f) to promote and encourage bibliographic study and research and the publication of professional literature;

(g) to collect and maintain a library of professional literature;

(h) to co-operate with library associations and other organizations interested in the promotion of education and culture both within and outside Sri Lanka; and

(i) to do all such other things as are incidental or conducive to the attainment of the above objects.

5. (1) The governing body of the Corporation shall be the Council. The Council.

(2) The Council shall consist of the following persons:—

(a) The office-bearers of the Corporation specified below who shall be elected at each annual general meeting of

the Corporation from among its members in accordance with the rules of the Corporation:—

- (i) The President
- (ii) The two Vice-Presidents
- (iii) The General Secretary
- (iv) The Assistant General Secretary
- (v) The Treasurer
- (vi) The Education Officer
- (vii) The Publications Officer.

(b) The member who last held the post of President.

(c) Other members, namely—

- (i) a representative from each professional group of the Corporation elected in accordance with the rules of the Corporation;
- (ii) a representative from each regional section of the Corporation elected in accordance with the rules of the Corporation; and
- (iii) two other members to be elected by the Council from among members of the Corporation.

(3) The quorum for a meeting of the Council shall be determined by such Council.

(4) The members of the Council holding office at the time of the coming into operation of this Law shall be the first members of the Council and shall hold office until the next annual general meeting of the Corporation.

(5) The term of office of the members of the Council specified in paragraph (c) of subsection (2) of this section shall be determined by the rules of the Corporation.

Powers and duties of the Council.

6. (1) Subject to the provisions of this Law and the rules of the Corporation, the Council shall have the following powers and duties:—

(a) to constitute standing and other Committees as the Council deems necessary;

(b) to make recommendations to the Corporation in respect of the making of rules and of additions, alterations and amendments to, and the rescission of, existing rules ;

(c) to determine the common seal of the Corporation and to alter it when necessary;

(d) to consider and adopt, with amendments when necessary, the annual report and the financial estimates of the Corporation;

(e) to summon special and annual general meetings of the Corporation;

(f) to award fellowships and associateships of the Corporation ;

(g) to expel any member from membership of the Corporation for conduct unbecoming of arid prejudicial to the interests of the Corporation on the recommendation of the Executive Committee and to withdraw any fellowship or associateship awarded to such member by the Corporation;

(h) to create posts of paid officers and servants of the Corporation and to determine the emoluments payable to them and the terms and conditions of their service ;

(i) to award scholarships and to create special funds for the purpose;

(j) for the purposes of the educational programme of the Corporation, to recognize and accredit library schools or courses established or conducted by private institutions ;

(k) to advise any person or institution in the recognition and accreditation of library schools, courses and examinations in librarianship established or conducted by private institutions and on any other matter relating to the profession of librarians;

(l) to determine the fees to be paid by the Corporation to examiners,

lecturers, and to persons preparing correspondence course') in librarianship for the Corporation;

- (m) to determine membership, tuition, examination and other fees payable to the Corporation;
- (n) to establish, recognize and register professional groups and regional sections of the Corporation ; and
- (o) to do or perform any other act or duty authorized or imposed upon the Council by this Law or by the rules of the Corporation.

(2) The Council shall have power to exercise all rights and perform all duties notwithstanding any vacancy for the time being in the composition of the Council.

Executive
Committee.

7. f1) The chief executive body of the Corporation shall be the Executive Committee.

(2) The Executive Committee shall consist of the following persons:—

- (a) The office-bearers specified below :—
 - (i) The President
 - (ii) The two Vice-Presidents
 - (iii) The General Secretary
 - (iv) The Assistant General Secretary
 - (v) The Treasurer
 - (vi) The Education Officer
 - (vii) The Publications Officer.

(b) Four other members who shall be elected by the Council from among its number,

(3) The quorum for a meeting of the Executive Committee shall be determined by the council.

Powers and
duties of the
Executive
Committee

8. (1) Subject to the provisions of this Law and the rules of the Corporation, and subject to the direction and control of the Council, the Executive Committee shall have the following powers and duties :—

- (fl) to purchase, hold, control, and administer the property and funds of the Corporation;

(b) to provide for the custody of the common seal of the Corporation, and to give directions with regard to the use of such seal;

(c) to appoint, promote, suspend, dismiss and otherwise punish paid officers and other employees of the Corporation;

(d) to receive, accept and administer bequests, donations and grants of any funds or property made to the Corporation;

(e) to prepare and consider the Annual Report, and the financial estimates of the Corporation and to submit such report and estimates to the Council;

(f) to provide the buildings, premises, furniture and equipment ; and other facilities required in carrying out the work of the Corporation or any of its Committees or Agencies;

(g) to enter into, vary, carry out or cancel contracts on behalf of the Corporation;

(h) to convene and organize seminars and conferences in furtherance of the objects of the Corporation and to make rules regarding the conduct of such seminars or conferences ;

(i) to organize exhibitions, arrange lectures and such other activities, as are deemed necessary and useful to achieve the objects of the Corporation;

(l) to admit and enrol new members;

(k) to suspend members from membership of the Corporation for non-payment of subscriptions or for any conduct unbecoming of and prejudicial to the interests of the Corporation and to recommend their expulsion to the Council;

(l) to award scholarships; and

(m) to exercise all such other powers and perform all such other duties as shall be conducive to the attainment of the objects of the Corporation.

(d) may borrow money, for the purposes of the Corporation.

(2) The Executive Committee shall have power to exercise all the powers and perform all the duties notwithstanding any vacancy, for the time being, in the composition of such committee.

11. (1) It shall be lawful for the Rules. Corporation, from time to time, at any general meeting and by the majority vote of the members present and voting, and with the prior approval of two-thirds of the members of the Council voting at a meeting of such Council, to make rules for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may in like manner be altered, added to, amended or rescinded.

Sums payable by or to the association to be paid by or to the Corporation.

9. All the 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 all subscriptions, contributions and fines payable to the association shall be paid to the Corporation for the purposes of this Law.

(2) Pending the making of rules by the Corporation, the regulations made by the association and in force on the date this Law comes into operation shall for all purposes be deemed to be rules made by the Corporation and shall continue in force and may be amended, altered, added to or rescinded by rules made under this Law.

Corporation may acquire, hold and dispose of property, and borrow money.

10. The Corporation—

(a) may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition or otherwise;

(b) shall hold any property subject to the rules for the time being of the Corporation;

(c) may sell, mortgage, lease, exchange or otherwise dispose of any of its properties. and

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 those claiming by, from, or under them.

Savings of the rights of the Republic and others.

CHAPTER 504

**SRI LANKA MALAY ASSOCIATION
RUPEE FUND**

Law
No. 37 of 1978.

A LAW TO INCORPORATE THE SRI LANKA MALAY ASSOCIATION RUPEE FUND.

[11th August, 1978.]

Short title.

1. This Law may be cited as the Sri Lanka Malay Association Rupee Fund (Incorporation) Law.

(e) to establish social welfare centres.

Incorporation
of the
Sri Lanka
Malay
Association
Rupee Fund.

2. From and after the date of commencement of this Law, the President, Vice-President, Honorary Secretary, Honorary Treasurer and such and so many persons as now are members of the Sri Lanka Malay Association Rupee Fund (hereinafter referred to as "the Fund"), 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 "Sri Lanka Malay Association Rupee Fund", 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. 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,

General objects
of the
Corporation.

3. The general objects of the Corporation are hereby declared to be—

- (a) to assist the Social Service Branch of the Sri Lanka Malay Association in its activities;
- (b) to provide financial and other assistance to persons deserving such assistance;
- (c) to grant scholarships to deserving students and to render assistance in any other form as may be deemed necessary to deserving students to enable them to prosecute their studies;
- (d) to establish and maintain orphanages and homes for the aged and destitute: and

5. (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 consisting of such number of persons to be elected in accordance with the rules in force, for the time being of the Corporation.

General
Committee.

(2) The first General Committee of the Corporation shall be the General Committee of the Fund holding office on the date of commencement of this Law.

6. (1) There shall be a Board of Trustees consisting of the President, the Honorary Secretary and the Honorary Treasurer, who shall be ex officio members of the Board, and four other persons elected in accordance with the rules in force for the time being of the Corporation from among members of the Corporation who are not members of the General Committee.

Board of
Trustees.

(2) The Board of Trustees shall receive all moneys and hold movable and immovable property on behalf of the Corporation. They shall disburse money as recommended by the General Committee.

(3) The first Board of Trustees of the Corporation shall be the Board of Trustees of the Fund holding office on the date of commencement of this Law.

Rules of the Corporation,

7. (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, the Board of Trustees and of the various officers, agents and servants of the Corporation, for the procedure to be followed 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).

(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 specially convened for that purpose and unless at least two weeks' prior notice of such alteration, addition, amendment or cancellation shall have been given to the members.

(3) The rules of the Fund in force on the date of the commencement of this Law 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 of the Corporation for the time being in force.

8. All debts and liabilities of the Fund 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 Fund shall be paid to the Corporation for the purposes of this Law.

Debts due by and payable to the Fund.

9. The seal of the Corporation shall not be affixed to any instrument whatsoever, except in the presence of at least the President and either the Honorary Secretary or the Honorary 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.

How the seal of the Corporation is to be affixed.

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, 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.

11. 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.

Saving of the rights of the Republic and others.

CHAPTER 378

SRI LANKA PRESS COUNCIL

Law No. 5 of 1973.

A LAW TO PROVIDE FOR THE APPOINTMENT OF A SRI LANKA PRESS COUNCIL, TO REGULATE AND TO TENDER ADVICE ON MATTERS RELATING TO THE PRESS IN SRI LANKA, FOR THE INVESTIGATION OF OFFENCES RELATING TO THE PRINTING OR PUBLICATION OF CERTAIN MATTERS IN NEWSPAPERS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[30th March. 1973.]

Short title.

1. This Law may be cited as the Sri Lanka Press Council Law.

Information (in this Law referred to as " the Director "); and

PART I

THE SRI LANKA PRESS COUNCIL

Constitution of Sri Lanka Press Council.

2. (1) There shall be a Council which shall be called the Sri Lanka Press Council (in this Law referred to as " the Council") consisting of the persons who are for the time being members thereof under this Law.

(b) six other members appointed by the President, of whom—

(i) one shall be a person to represent the working journalists, such person being selected from a panel of not more than seven persons nominated by the journalists' associations in Sri Lanka, and

(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.

(ii) one shall be a person to represent the interests of the employees of newspaper businesses, such person being selected from panels of not more than three persons nominated by each registered trade union of such employees.

(3) The Council may, for the purpose of functioning as a body corporate under this Law,—

(a) acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any immovable or movable property; and

(2) One of the members appointed by the President shall be designated Chairman of the Council.

(b) enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Council, all such contracts or agreements as may be necessary in the exercise of the powers of the Council.

(3) No person who is or becomes a Member of Parliament shall be eligible for appointment, or to continue in office, as a member of the Council.

Members of the Council.

3. (1) The Council shall consist of—

(a) the person for the time being holding office as the Director of

4. (1) Every member of the Council, other than the Director, shall, subject to the provisions of subsection (2), hold office for a period of three years, and shall accordingly vacate his office at the end of that period.

Term of office of members of the Council, other than the Director.

(2) A member of the Council, other than the Director, shall vacate his office as such member, otherwise than by effluxion of time—

- (a) upon his death ; or
- (b) if he resigns such office by writing under his hand addressed to the President; or
- (c) if he is removed from office by the President; or
- (d) if he is adjudged by a competent court to be insolvent or bankrupt or of unsound mind.

(3) A member of the Council shall not be removed from office unless the President is satisfied—

- (a) that such member has become subject to the disqualification set out in subsection (3) of section 3 ; or
- (b) that such member has become permanently incapable of performing his functions as a member; or
- (c) that such member has done or committed any act, matter or thing which in the opinion of the President is of a fraudulent or an illegal character, or which is likely to prejudice or damage the interests of the Council.

(4) A member of the Council who is appointed in place of a member who vacates his office, otherwise than by effluxion of time, shall hold office for the unexpired period of the term of office of the member whom he has succeeded.

(5) Where a member of the Council, other than the Director, becomes by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the President may appoint a person to act in his place in accordance with the preceding provisions of this Law.

(6) A member of the Council who vacates his office by effluxion of time shall be eligible for reappointment.

5. The members of the Council, other than the Director, shall be paid remuneration for attendance at meetings of the Council at such rates 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 Council, other than the Director.

6. (1) The quorum for any meeting of the Council shall be five.

Quorum for meetings of the Council and the procedure to be followed at such meetings.

(2) Subject to the other provisions of this Law, the Council may regulate the procedure in regard to the meetings of the Council and the transaction of business at such meetings.

7. The Council may act notwithstanding a vacancy amongst the members thereof.

The Council may act despite a vacancy.

8. Subject to the provisions of this Law, the objects of the Council shall be—

Objects of the Council.

- (1) to ensure the freedom of the press in Sri Lanka, to prevent abuses of that freedom, and to safeguard the character of the Sri Lanka press in accordance with the highest professional standards;
- (2) to ensure that newspapers shall be free to publish as news true statements of facts, and any comments based upon true statements of facts;
- (3) to ensure on the part of newspapers and journalists the maintenance of high standards of journalistic ethics, and to foster a due sense of both the rights and responsibilities of citizenship;
- (4) to improve methods of recruitment, education, welfare and training in the profession of journalism;
- (5) to promote a proper functional relation among all sections engaged in the production or publication of newspapers, and the establishment of common services for the supply and dissemination of news as may from time to time appear to be desirable;

(6) to undertake research into the use and needs of the press, to keep under review developments likely to restrict the supply of information of public interest and importance and developments in the Sri Lanka press which may tend towards concentration or monopoly, and to suggest appropriate remedial measures in relation thereto;

(7) to advise the Government on any matter pertaining to the regulation and conduct of newspapers.

Action by the Council against newspapers, editors, &c.

9. (1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that there has been published in a newspaper a statement, picture or other matter which is untrue, distorted or improper, as the case may be, or that an editor or a working journalist of a newspaper has committed any professional misconduct or breach of the code of Journalistic ethics, the Council may hold an inquiry in the prescribed manner and if the Council is satisfied, after giving the newspaper, the proprietor, printer, publisher, editor or journalist concerned an opportunity of being heard, that it is necessary so to do, it may either—

- (a) order that a correction approved by the Council be published in the appropriate newspaper; or
- (b) censure the proprietor, printer, publisher, editor, journalist or other officer or authority of such newspaper; or
- (c) order that an apology be tendered by such proprietor, printer, publisher, editor, Journalist or other officer or authority to the appropriate party.

(2) In any inquiry under subsection (1) in pursuance of a complaint made to the Council the burden of satisfying the Council in regard to the matter of any complaint, shall be on the complainant. In any inquiry initiated by the Council of its own motion, the newspaper, proprietor, printer, publisher, editor or Journalist, as the case may be, shall be furnished with a statement of the material upon which the inquiry has been initiated by the Council and an

opportunity given to such persons of challenging such material as is reasonable in the opinion of the Council.

(3) All corrections and apologies ordered, and censures made, by the Council under subsection (1) shall be published in such newspaper and in such manner as may be determined by the Council.

(4) Nothing in subsection (1) shall be deemed—

- (a) to prevent any person aggrieved by any matter referred to in that subsection from instituting or maintaining any proceedings in any court of law in respect of such grievance; or
- (b) to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(5) Any order or censure of the Council made under subsection (1) shall be final and conclusive and shall not be questioned in any court of law.

10. The Council may—

General powers of the Council.

- (1) require the proprietor, printer, publisher, editor or journalist of any newspaper to furnish to the Council such returns and information on such matters as it may deem necessary for the purpose of performing its functions under this Law;
- (2) prescribe a code of ethics for journalists;
- (3) subject to the provisions of this Law, make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, welfare, conduct and the grant of leave to them;
- (4) make rules in respect of the administration of the affairs of the Council;
- (5) study developments which may tend towards monopoly or concentration of ownership of newspapers,

including a study of the ownership and the financial structure of newspapers, and suggest appropriate measures in relation thereto;

- (6) hold such enquiries as may be necessary in accordance with such provisions as may be prescribed ;
- (7) promote technical or other research ;
- (8) draw the attention of the appropriate authorities to any breach of the provisions of this Law, or of any regulations made thereunder; and
- (9) do such other acts as may be incidental or conducive to the carrying out of the objects of the Council or the exercise of its powers under this Law.

(ii) refuses to be sworn or having been duly sworn, refuses or fails without cause, which in the opinion of the Council is reasonable, to answer any question put to him touching the matters being inquired into by the Council, or

(iii) refuses or fails without cause, which in the opinion of the Council is reasonable, to produce and show to the Council any document or other thing which is in his possession or power and which is in the opinion of the Council necessary for arriving at the truth of the matters being inquired into by the Council,

Powers of the Council in respect of inquiries under this Law.

11. For the purpose of any inquiry held by the Council under this Law, the Council shall have all the powers of a District Court—

- (a) to summon and compel the attendance of any person;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to any person.

Offences under the Law in connexion with inquiries held by the Council.

- 12.** (1) Where any person—
- (a) without sufficient reason publishes any statement or does anything that brings the Council or any member thereof into disrepute during the progress or after the conclusion of any inquiry conducted by such Council; or
 - (b) interferes with the lawful process of the Council; or
 - (c) in the course of an inquiry being held by the Council under this Law—
 - (i) fails without cause, which in the opinion of the Council is reasonable, to appear before the Council at the time and place mentioned in any summons issued by the Council; or

such person shall be guilty of the offence of contempt against or in disrespect of the authority of the Council.

(2) Where the Council determines that a person has committed any offence of contempt (referred to in subsection (1)) against or in disrespect of its authority, the Council may cause its Secretary to transmit to the Court of Appeal a certificate setting out such determination ; every such certificate shall be signed by the Chairman of the Council.

(3) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognizance of as provided in subsection (5) hereunder, any document purporting to be a certificate signed and transmitted to the Court under subsection (2) 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 Council and of the facts stated in the determination.

(4) In any proceedings taken as provided in subsection (5) hereunder for the

punishment of any alleged offence of contempt against or in disrespect of the authority of the Council, no member of the Council shall, except with his own consent, be summoned or examined as a witness.

(5) Every offence of contempt committed against or in disrespect of the authority of the Council shall be punishable by the Court of Appeal under Article 105 of the Constitution, as though it were an offence of contempt committed against or in disrespect of the authority of that Court.

Offences by bodies of persons.

13. In the case of any offence under this Law committed by a body of persons—

(a) where the body of persons is a body corporate, every director, secretary and officer of that body corporate shall each be deemed to be guilty of that offence; and

(b) where the body of persons is a firm, every partner of the firm shall be deemed to be guilty of that offence :

Provided that no such person 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 the offence.

Persons liable in case of offences committed through the means of a newspaper.

14. In the case of any offence under this Law committed through the means of a newspaper, the proprietor, publisher, printer, editor and journalist of such newspaper shall each be deemed to be guilty of that offence:

Provided that no such person shall 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 the offence.

Certain criminal publications.

15. (1) Every person who publishes, or causes the publication of, in any newspaper,—

(a) any profane matter; or

(b) any statement or matter concerning a person which will amount to

defamation of such person within the meaning of section 479 of the Penal Code; or

(c) any advertisement which is calculated to injure public morality; or

(d) any indecent or obscene statement or matter,

shall be guilty of an offence and shall, upon conviction, be liable to be punished with a fine not exceeding five thousand rupees, or with imprisonment of either description for a term not exceeding two years or with both such fine and imprisonment.

(2) For the purposes of this section—

(a) " profane matter " means any matter which is intended to insult—

(i) any religion or the founder of any religion;

(ii) any deity or saint venerated by the followers of any religion; and

(b) " indecent or obscene statement or matter " shall be deemed to be any statement or matter which is likely to deprave and corrupt persons who may, having regard to all relevant circumstances, read or see that statement or matter.

16. (1) No person shall publish, or cause to be published, in any newspaper, any matter which purports to be the proceedings or any part thereof, of a meeting of the Cabinet of Ministers. Publication of certain matters relating to Cabinet decisions, &c.

(2) No person shall publish, or cause to be published in any newspaper—

(a) any matter which purports to be the contents or any part of the contents of any document sent by or to all or any of the Ministers to or by the Secretary to the Cabinet of Ministers; or

(b) any matter which purports to be a decision or any part of a decision of the Cabinet of Ministers,

unless it has been approved for publication in the newspapers by the Secretary to the Cabinet of Ministers.

(3) No person shall publish or cause to be published in any newspaper any official secret within the meaning of the Official Secrets Act or any matter relating to military, naval, air-force or police establishments, equipment or installation which is likely to be prejudicial to the defence and security of the Republic of Sri Lanka, unless such matter has been approved for publication in the newspapers by the Secretary to the Ministry charged with the subject of Defence.

(4) No person shall publish or cause to be published in any newspaper any statement relating to monetary, fiscal, exchange control or import control measures alleged to be under consideration by the Government or by any Ministry or by the Central Bank, the publication of which is likely to lead to the creation of shortages or windfall profits or otherwise adversely affect the economy of Sri Lanka, unless such matter has been approved for publication in the newspapers by the Secretary to the Ministry charged with the subject in question.

(5) Subject to the preceding provisions of this section, no person shall publish, or cause to be published, in any newspaper, any proposal or other matter, alleged to be under consideration by any Minister or any Ministry or the Government, when it is false that such proposal or matter is under consideration by such Minister, Ministry or by the Government. In any prosecution for a contravention of this subsection, the burden of proving that any such proposal or other matter so published is false shall be on the prosecution.

(6) In this section—

- (a) " Cabinet of Ministers " includes a Committee of Ministers appointed by the Cabinet of Ministers;
- (b) " Government " means the Cabinet of Ministers;
- (c) " Secretary to the Cabinet of Ministers " includes an officer

authorized in writing by the Secretary to the Cabinet of Ministers for the purposes of this section.

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall, upon conviction, be liable to be punished with a fine not exceeding five thousand rupees, or with imprisonment of either description for a term not exceeding two years, or with both such fine and imprisonment.

17. In any proceedings at an inquiry before the Council, the Commissioner or the defendant may appear in person or by a pleader or any agent duly authorized in writing,

Appearance before the Council.

For the purposes of this section, the word " pleader " means an attorney-at-law.

18. All sums paid or recovered by way of fines under this Law shall be credited to the Consolidated Fund.

Fines to be credited to the Consolidated Fund.

PART II

FINANCE

19. (1) The Council shall have its own Fund.

The Fund of the Council.

(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 use of the Council;
- (b) all sums of money received by the Council in the exercise, discharge and performance of its functions, powers and duties including any registration fees that may be recovered from proprietors of newspapers in terms of regulations made under this Law; and
- (c) all donations, gifts or grants from any source whatsoever.

(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 functions, powers and duties, and all such sums of money as are required to be paid out of such Fund by or under this Law.

Application of the provisions of the Public Corporations (Financial Control) Act.

20. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Council.

Financial year of the Council.

21. The financial year of the Council shall be the calendar year.

PART III
GENERAL

Appointment of Press Commissioner.

22. (1) For the purposes of this Law, the Council may, with the concurrence of the Minister, appoint a Press Commissioner who shall be the chief executive officer of the Council.

(2) The Commissioner shall act under the general direction and control of the Council.

(3) The Commissioner may be paid such salary and allowances as may be determined by the Minister with the advice of the Council and the concurrence of the Minister in charge of the subject of Finance.

Appointment of staff.

23. (1) Subject to the succeeding provisions of this section, the Council may appoint for the purposes of this Law, such officers and servants as it may deem necessary.

(2) At the request of the Council 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 Council for such period as may be determined by the Council with like consent, or be permanently appointed to such staff.

(3) The provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957,* shall, *mutatis mutandis*, apply 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 9

shall, *mutatis mutandis*, apply in relation to any officer in the public service who is permanently appointed to such staff.

(4) 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.

(5) At the request of the Council any member of the Local Government Service or any officer or servant of any local authority may, with the consent of such member, officer or servant and the Secretary to the Ministry charged with 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 that Secretary or authority.

(6) Where any member of the Local Government Service or any officer or servant of any local authority is temporarily appointed to the staff of the Council, he shall be subject to the same disciplinary control as any other member of such staff.

24. The Council shall comply with such general directions as may be given to the Council by the Minister in accordance with the provisions of this Law or of any regulations made thereunder.

Compliance with directions.

25. Regulations may be made under this Law for the registration of the proprietors and editors of newspapers in respect of their newspapers, and the levy of fees in respect of such registration,

Regulations regarding registration and registration fees.

26. For the purposes of this Law, the printer and publisher of every newspaper shall, on each day on which such newspaper is published or on the day next following which is not a holiday, cause to be delivered at the office of the Commissioner a copy of

Duties of printer and publisher of newspaper.

* Repealed by Law No. 19 of 1978.

such newspaper and of every subsequent and other varied edition or impression of such newspaper so printed or published with the name and place of residence of the printer or publisher thereof signed and written thereon, after such name and address are printed by his hand and in his accustomed manner of signing or by some person appointed and authorized by him for that purpose, and of whose appointment and authority due notice in writing signed by such printer or publisher is given to the Commissioner.

Protection of members, officers and servants of the Council for action taken under this Law.

27. No civil or criminal proceedings shall be instituted against any member of the Council or against any officer or servant of the Council appointed for the purposes of this Law for any act which is in good faith done or purported to be done by him under this Law,

Officers and servants of the Council deemed to be public servants.

28. All officers and servants of the Council shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

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

29. 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.

Rules and regulations.

30. (1) The Council may make rules—

- (a) setting out a code of ethics for journalists, and
- (b) in respect of the administration of the affairs of the Council.

(2) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law and for all matters required by this Law to be prescribed or in respect of which regulations are necessary or authorized by this Law.

(3) Every rule or regulation made under this section shall be laid before Parliament for approval. Every rule, or regulation which is so approved shall be deemed to be valid and effectual as though herein enacted with effect from the date of the notification

of such approval in the Gazette or from such later date as may be specified in such notification.

Offences under the Law.

31. Any person who disobeys any lawful order of the Council or in any other manner contravenes any provisions of this Law shall be guilty of an offence under this Law and shall upon conviction after summary trial before a Magistrate be liable, except as otherwise provided in this Law, to a fine of one thousand rupees or to a term of imprisonment of either description of one year or to both such fine and imprisonment.

Disclosure of sources of information.

32. (1) Nothing in this Law shall be deemed to require any newspaper, proprietor, printer, publisher, editor or journalist to disclose the source of information relating to any item of news published in any newspaper.

(2) It shall be lawful for any newspaper, proprietor, printer, publisher, editor or journalist to disclose the source of information in relation to any such item by way of defence at any inquiry under section 9 or any prosecution under section 16 (5).

(3) The provisions of subsection (1) shall have no application to any other law or to any proceedings in relation to any newspaper, proprietor, printer, publisher, editor or journalist under the provisions of any other law.

33. In this Law, unless the context otherwise requires—

"Commissioner" means the Press Commissioner appointed under this Law and in relation to inquiries held under this Law and proceedings before the Council, includes any officer authorized in that behalf by the Commissioner;

"newspaper" means any paper containing public news, intelligence or occurrences printed or published in Sri Lanka, but does not include any proclamation, notice, or other public paper printed and published under the authority of the Government, or any paper containing only lists of current prices, or the state of markets, or accounts of the arrival, sailing or other circumstances relating to

merchant ships or vessels, or advertisements of a commercial or like nature, or advertisements previously published in the Gazette;

34. 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 law, the provisions of this Law shall prevail.

This Law to Prevail over other written law.

"prescribed " means prescribed by regulations made under this Law.

CHAPTER 471

SRI LANKA SAHITYA MANDALAYA

Acts AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND INCORPORATION OF THE SRI
Nos. 31 of 1958, LANKA SAHITYA MANDALAYA AND FOR MATTERS CONNECTED THEREWITH.
13 of 1965.

[16th September. 1958.]

Short title. **1.** This Act may be cited as the Sri Lanka Sahitya Mandalaya Act.

reference, in the national languages, and, where necessary, to undertake such publication; [§ 3,13 of 1965-]

Establishment and incorporation of the Sri Lanka Sahitya Mandalaya. [§ 2, 13 of 1965.] **2.** (1) There shall be established, in accordance with the provisions of this Act, an institution which shall be called the Sri Lanka Sahitya Mandalaya hereinafter referred to as the Mandalaya.

(d) to sponsor or hold conferences and seminars for the study of literature in the national languages, and exhibitions of literary works in the national languages, on an all-island or on a regional basis, and otherwise to encourage and foster the study of such literature among the people;

(2) The persons who for the time being members of the Mandalaya under the provisions of section 7 shall be a body corporate with the name " Sri Lanka Sahitya Mandalaya", and such body shall have perpetual succession and a common seal and may sue and be sued in such name.

(e) to award prizes and distinctions and to give recognition to authors of literary works of outstanding merit in the national languages ;

(3) The headquarters of the Mandalaya shall be in Colombo or at such other place in Sri Lanka as may be determined by the Mandalaya.

(f) to edit and publish such literary works written in Sri Lanka in the national languages or in Pali or Sanskrit as have not hitherto received sufficient attention; and

Objects of the Maqndalaya **3.** (1) The objects of the Mandalaya shall be—

(a) to secure co-operation among men of letters for the development of literature in the national languages ;

(g) to exchange cultural missions with other countries and to establish relations with international organizations in the field of letters.

(b) to encourage or cause translations of literary works in foreign languages to be made into the national languages and translations of literary works in the national languages to be made into foreign languages;

(2) In subsection (1) the expression " national languages " means the Sinhala and Tamil languages.

(c) to assist individuals and bodies of persons in the publication of literary works, including bibliographies, dictionaries, encyclopaedias and other works of

4. There shall be paid to the Mandalaya out of the Consolidated Fund an initial contribution of one hundred thousand rupees for the purpose of defraying the preliminary expenses, and providing the working capital, of the Mandalaya, and such further contributions as may from time to time be approved by resolution of Parliament. Contribution to the Mandalaya by the Government. [§ 4, 13 of 1965.]

Powers of the Mandalaya.

5. The Mandalaya shall have power—

(a) to acquire and hold any movable or immovable property, and to sell, grant, convey, devise, assign, exchange or otherwise dispose of or mortgage any such property, and to invest its funds in such manner as may be necessary or expedient for the furtherance of its objects; and

(b) to perform all such acts as may be necessary for, or incidental to, the carrying out of its objects.

(b) if he is adjudged by a competent court to be of unsound mind; or

(c) if he is adjudged by a competent court to be an insolvent or bankrupt; or

(d) if he has any direct or indirect interest in any contract with the Mandalaya; or

(e) if he resigns office by letter addressed to the Minister; or [§ 7,13 of 1965-]

(f) if his membership is terminated by the Minister; or [§ 7,13 of 1965-]

(g) if he absents himself from five consecutive meetings of the Mandalaya. [§ 7,13 of 1965-]

Application of property, money, &c., of the Mandalaya.

6. All property acquired or held by the Mandalaya and all moneys paid to or received by the Mandalaya shall be used and applied by the Mandalaya in furtherance of its objects.

Members of the Mandalaya. [§5,13 of 1965.]

7. (1) The Mandalaya shall consist of the following members :—

(a) five persons, two of whom shall respectively be designated President and Vice-President of the Mandalaya, appointed as such by the Minister;

(b) every person for the time being holding office as the Chairman of any Panel appointed in accordance with the provisions of section 14, if such person is not already a member of the Mandalaya.

10. (1) The President of the Mandalaya shall, unless he earlier resigns the office of President, hold that office during his term of office as a member of the Mandalaya President and vice-president. [8,13 of 1965.]

(2) The Vice-President of the Mandalaya shall, unless he earlier resigns the office of Vice-President, hold that office during his term of office as a member of the Mandalaya.

(3) The Vice-President shall, in the absence of the President, exercise and perform all the powers and functions of the President.

(4) The President may resign the office of President, and the Vice-President may resign the office of Vice-President, by letter addressed to the Minister.

(2) Every member of the Mandalaya appointed under paragraph (a) of subsection (1) shall, unless he vacates office earlier, hold office for a period of three years and shall be eligible for reappointment.

(3) The Minister may, without assigning reason, terminate the membership of any member of the Mandalaya appointed under paragraph (fl) of subsection (1).

11. (1) The Mandalaya may, subject to the provisions of subsection (2), elect, on the recommendation of its Executive Committee,— Election of Fellows, Honorary Fellows and Associate Fellows of the Mandalaya.

(a) authors of books of outstanding merit in the national languages who are citizens of Sri Lanka as Fellows of the Mandalaya,

(b) persons who have done research of outstanding merit in the literature or arts of Sri Lanka and who are not citizens of Sri Lanka as Honorary Fellows of the Mandalaya, and

Resignation of members. [§6, 13 of 1965.]

8. A member of the Mandalaya may resign office by letter addressed to the Minister.

Vacation of office by members.

9. A member of the Mandalaya shall vacate office—

(a) if he is appointed as the auditor or one of the auditors of the Mandalaya; or

(c) persons proficient in the literature of Sri Lanka in the national languages as Associate Fellows of the Mandalaya.

(2) At no time shall—

(a) the number of Fellows exceed ten,

(b) the number of Honorary Fellows exceed ten, and

(c) the number of Associate Fellows exceed twenty.

(3) A person elected as a Fellow, an Honorary Fellow, or an Associate Fellow of the Mandalaya under subsection (1) shall remain so for life unless he renounces the fellowship by letter addressed to the President of the Mandalaya.

Meetings of the Mandalaya.

12. (1) A meeting of the Mandalaya shall be held at least once in every three months.

(2) At any meeting of the Mandalaya the President of the Mandalaya, or, in his absence, the Vice-President of the Mandalaya, or, if neither the President nor the Vice-President is present, any member of the Mandalaya present at that meeting who is elected as the chairman of that meeting by the members of the Mandalaya so present, shall preside.

(3) The person presiding at any meeting of the Mandalaya may, with the consent of the majority of the members of the Mandalaya present at that meeting, adjourn that meeting.

(4) The President of the Mandalaya may of his own motion, and shall upon a requisition in writing made in that behalf by the Executive Committee of the Mandalaya or by any five or more members of the Mandalaya, cause a meeting of the Mandalaya to be summoned.

(5) Any question arising at any meeting of the Mandalaya shall be decided by the vote of a majority of the members present, and in the case of an equality of votes, the person presiding at that meeting shall have a second or casting vote.

[§ 9,13 of 1965.]

(6) The quorum for a meeting of the Mandalaya shall be eight members of the Mandalaya.

13. (1) The Mandalaya shall have an Executive Committee consisting of—

Executive Committee of the Mandalaya.

(a) the President of the Mandalaya,

(b) the Vice-President of the Mandalaya, and

(c) not more than five others elected by the Mandalaya from among its members.

(2) The Mandalaya may by resolution terminate the membership of the Executive Committee of any person elected to such Committee under subsection (1) (c).

(3) A member of the Executive Committee who is elected to such Committee under subsection (1) (c), may resign office as such member by letter addressed to the President of the Mandalaya.

(4) A member of the Executive Committee shall vacate office as such member—

(a) if his membership is terminated by the Mandalaya, or

(b) if he ceases to be a member of the Mandalaya.

(5) The Executive Committee shall have the following powers:—

(a) to exercise the executive authority for the Mandalaya, subject to such directions as may be given by the Mandalaya;

(b) to supervise and control the work of the Mandalaya and of its officers and servants;

(c) to prepare and submit to the Mandalaya for approval programmes and schemes for the furtherance of the objects of the Mandalaya;

(d) to prepare and submit to the Mandalaya for approval the annual budget, report and accounts of the Mandalaya; and

[§ 10,13 of 1965]

(e) to propose, for the consideration of the Mandalaya, names of persons qualified to be elected as Fellows, Honorary Fellows, and Associate Fellows of the Mandalaya.

[§ 10,13 of 1965.]

(6) A meeting of the Executive Committee shall be held at least once in every month, and the person presiding at any such meeting may, with the consent of the members present, adjourn the meeting.

(7) At any meeting of the Executive Committee the President of the Mandalaya, or, in his absence, the Vice-President of the Mandalaya, or, if neither the President nor the Vice-President is present, any member of such Committee present at such meeting who is elected as the chairman of that meeting by the members of such Committee so present, shall preside.

(8) The quorum for a meeting of the Executive Committee shall be three members of such Committee.

(9) Where the President of the Mandalaya at any meeting of the Executive Committee is of opinion that any matter before that meeting—

- (a) is of exceptional novelty or importance or is such that it is likely to lead to considerable expense, or
- (b) gives rise, or is likely to give rise, to a serious difference of opinion among the members of such Committee, or
- (c) gives rise, or is likely to give rise, to criticism or opposition by a responsible section of the public,

he shall refer such matter to the Mandalaya with a view to obtaining instructions thereon.

14. (1) The Minister may, after consulting the five members of the Mandalaya appointed under paragraph (a) of subsection (1) of section 7, appoint such number of Panels and such number of persons not exceeding twelve to each such Panel as the Minister may consider necessary, for the purpose of advising and assisting the Mandalaya on the general advancement of each of the following branches of literature :—

- (a) Classical Sinhala literature;
- (b) Classical Tamil literature ;

(c) Modern Sinhala fiction;

(d) Modern Sinhala poetry;

(e) Modern Sinhala drama;

(f) Sinhala translations;

(g) Modern Tamil poetry ;

(h) Modern Tamil fiction;

(i) Modern Tamil drama;

(j) Tamil translations;

(k) Islamic Arabic literature;

(l) Sanskrit and Pali literature ;

(m) any other branch of literature considered necessary by the Minister.

(2) Each Panel appointed under subsection (1) is hereafter in this Act referred to as the " Panel ".

(3) Any member of the Mandalaya appointed under paragraph (a) of subsection (1) of section 7, shall be eligible for appointment as a member of a Panel. The President of the Mandalaya shall be an ex officio member of each of the Panels.

(4) The Minister shall, after consulting the members of the Mandalaya appointed under paragraph (a) of subsection (1) of section 7, appoint one member of each Panel to be the Chairman of that Panel.

(5) The Minister may, without assigning reason, revoke the appointment of any Panel or of any member of any Panel or of the Chairman of any Panel.

(6) Every member of a Panel shall, unless he resigns his membership by letter addressed to the Minister or his appointment is revoked by the Minister, hold office for a period of three years and shall be eligible for reappointment.

(7) The quorum for any meeting of a Panel shall be three members.

Appointment of officers and servants.

15. (1) The Mandalaya may appoint a General Secretary who shall be the chief executive officer of the Mandalaya and such other officers and servants as the Mandalaya may consider necessary for carrying out its objects :

[§ 12, 13 of 1965.]

Provided, however, that—

(a) no person shall be appointed as General Secretary or to act as General Secretary, except with the prior permission of the Minister; and

(b) no officer or servant shall be dismissed from the service of the Mandalaya, except by resolution passed at a meeting of the Mandalaya, the number of votes cast in favour of such resolution being not less than two-thirds of the total number of members of the Mandalaya (including those not present at that meeting).

(2) The remuneration and conditions of service of the officers and servants of the Mandalaya shall be such as may be determined by the Mandalaya.

Fund of Mandalaya. [§ 13, 13 of 1965.]

16. The Mandalaya shall have its own Fund. All moneys received by the Mandalaya, including such sums as may be voted from time to time by Parliament for the use of the Mandalaya, shall be credited to the Fund and all payments made by the Mandalaya shall be made therefrom. The Mandalaya may utilize moneys from the Fund for the purpose of paying the remuneration of its staff and such sums as may be payable under section 23 to its members and the members of the Executive Committee and of the Panels, and defraying the expenditure incurred in the administration of its affairs, the exercise of its powers and the promotion of its objects :

Provided that no single item of expenditure in excess of five thousand rupees shall be incurred by the Mandalaya without the prior sanction of the Minister.

Accounts, Audits and annual reports. [§ 13, 13 of 1965.]

17. (1) The Mandalaya shall cause its accounts to be kept in such form and in such manner as the Minister may direct.

(2) The Mandalaya shall cause its books to be balanced as on the thirty-first day of December in each year and shall, before the thirtieth day of April of the following year, cause to be prepared a revenue and expenditure account and a balance sheet containing a summary of the assets and liabilities of the Mandalaya made up to the first-mentioned date. The revenue and expenditure account and the balance sheet shall be signed by the President and by such officer of the Mandalaya as may be authorized by the Mandalaya to do so.

(3) The accounts of the Mandalaya shall be audited annually by an 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 member of the Institute of Chartered Accountants of Sri Lanka. The auditor shall receive such remuneration from the Mandalaya as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine.

(4) The Auditor-General shall have power—

(a) to direct the manner in which the accounts of the Mandalaya 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 the auditor, and

(b) to conduct a supplementary or test audit of the accounts of the Mandalaya 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.

(5) The auditor shall examine the accounts of the Mandalaya and ascertain the correctness of the balance sheet and furnish a report to the Auditor-General stating—

(a) whether he has or has not obtained all the information and explanations required by him, and

(b) whether in his opinion the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Mandalaya.

(6) The Auditor-General shall have the right to comment upon or supplement the auditor's report in such manner as the Auditor-General may think fit.

(7) The Auditor-General shall transmit the auditor's report together with his comments (if any) upon, or his supplement (if any) to, such report to the Mandalaya.

(8) The Mandalaya shall, on receipt of the auditor's report in respect of any year, transmit to the Minister—

(a) a copy of such report together with the Auditor-General's comments (if any) upon, and his supplement (if any) to, such report,

(b) a copy of the revenue and expenditure account,

(c) a copy of the balance sheet, and

(d) a report by the Mandalaya on its work for the period for which the revenue and expenditure account and balance sheet have been made up.

(9) The Minister shall lay copies of the documents transmitted to him under subsection (8) before Parliament.

18. The Mandalaya, the Executive Committee and every Panel shall each cause minutes to be made of the proceedings and resolutions of its meetings.

19. The books of accounts and minutes of the Mandalaya, the Executive Committee and Panels shall be kept at the head office of the Mandalaya.

20. The Minister may issue—

(a) general directions, or

(b) after consulting the Mandalaya, special directions,

to the Mandalaya regarding the work of the Mandalaya, and it shall be the duty of the Mandalaya to carry out all such directions.

21. All acts done at any meeting of the Mandalaya or the Executive Committee or 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 or election of any member thereof or that any such member was disqualified 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 had been duly appointed or elected or duly qualified or as if there had been no such failure to give notice.

22. The seal of the Mandalaya shall not be affixed to any instrument except in the presence of one member of the Mandalaya and the General Secretary or such other person as may be authorized by the Mandalaya for the purpose, each of whom shall sign his name on the instrument in token of his presence, and such signing shall be independent of the signing of any person as a witness.

23. (1) The Mandalaya may pay to any member of the Mandalaya, or of the Executive Committee, or of any Panel any expenses actually incurred by him in the performance of his duties as such member.

(2) Save as otherwise provided in subsection (1), no member of the Mandalaya, the Executive Committee, or any Panel shall be entitled to any remuneration for work done by him as such member.

24. The Mandalaya may make rules, not inconsistent with any provision of this Act, relating to the meetings and the transactions of the business of the Mandalaya, the Executive Committee and the Panels, and generally in respect of the administration of the affairs of the Mandalaya.

Acts of the Mandalaya, Executive Committee, and Panels. [§ 14,13 of 1965.]

Seal of the Mandalaya

Remuneration of members. [§ 14, 13 of 1965.]

[§ 14,13 of 1965]

Rules.

[16,13 of 1965.]

Minutes. [§ 14, 13 of 1965.]

Books to be kept at the head office. [§ 14, 13 of 1965.]

General and Special directions by the Minister. [§ 15, 13 of 1965.]

CHAPTER 264

SRI LANKA STATE PLANTATIONS CORPORATION

Acts
Nos. 4 of 1958,
12 of 1962,
49 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION FOR THE PURPOSE OF SETTING UP AND CARRYING ON AGRICULTURAL UNDERTAKINGS; TO SPECIFY SUCH AGRICULTURAL UNDERTAKINGS; TO REGULATE THE POWERS AND DUTIES OF SUCH CORPORATION; AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[20 th February, 1958.]

Short title.

1. This Act may be cited as the Sri Lanka State Plantations Corporation Act.

as a member of the Corporation; and

Establishment of the Sri Lanka State Plantations Corporation.

2. (1) There shall be established a corporation which shall be known as the Sri Lanka State Plantations Corporation (hereafter in this Act referred to as the Corporation) and which shall consist of the persons who are from time to time appointed under section 3 as the members thereof.

(b) where the member who is so unable to function is the official member, appoint any other officer of the General Treasury, to act as a member of the Corporation.

(2) The Corporation shall be deemed to be established on the date with effect from which its first members are appointed under section 3.*

(3) Every member of the Corporation shall, unless he vacates the office of member of the Corporation earlier, hold such office for a period of three years commencing on the date of his appointment:

(3) The Corporation shall have perpetual succession and a common seal, and may sue and be sued in the name assigned to it by subsection (1).

Provided that—

Members of the Corporation.
[§ 4, 49 of 1979.]

3. (1) Subject to the provisions of subsection (2), there shall be seven members of the Corporation who shall be appointed by the Minister. Such members shall be appointed from among persons possessing a knowledge of planting, management, accountancy or labour relations, or who have expertise in industrial, financial and commercial matters. One of such members shall be an officer of the General Treasury, who shall hereafter in this Act be referred to as the "official member".

(a) a person who is appointed as a member of the Corporation in place of a member who has vacated the office of member of the Corporation before the end of his term of office shall, unless the member so appointed vacates the office of member of the Corporation earlier, hold such office during the unexpired part of such term, and

[§ 4, 49 of 1979.]

(2) If a member of the Corporation is temporarily unable to function as such member, the Minister may,—

(b) a person appointed to act as a member of the Corporation during the absence of a member of the Corporation who is temporarily unable to function as such member shall, unless he vacates the office of member of the Corporation earlier, hold such office during such absence.

(a) where the member is not the official member, appoint any person to act

* See Gazette No. 11,465 of 1st August, 1958.

(4) A member of the Corporation may resign the office of such member by letter addressed to the Minister.

(5) The Minister may, without assigning any reason, terminate the appointment of any person as a member of the Corporation.

(6) A member of the Corporation shall be deemed to vacate the office of such member if he resigns such office or if his appointment as such member is terminated by the Minister.

(7) All or any of the members of the Corporation 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.

Chairman of the Corporation. [§5,49 of 1979.]

4. (1) The Minister shall appoint as the Chairman of the Corporation one of the members of the Corporation other than the official member.

[§5,49 of 1979.]

(2) If the Chairman of the Corporation is temporarily unable to function as such Chairman, the Minister may appoint any member of the Corporation, other than the official member, to act as the Chairman of the Corporation.

(3) The Chairman of the Corporation shall, unless he vacates the office of Chairman earlier, hold such office during the term for which he is a member of the Corporation:

Provided that a person appointed to act as the Chairman of the Corporation during the absence of the Chairman of the Corporation who is temporarily unable to function as such Chairman shall, unless he vacates the office of Chairman earlier, hold such office during such absence.

(4) The Chairman of the Corporation 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 Corporation as the Chairman of the Corporation.

(6) The Chairman of the Corporation shall be deemed to vacate the office of Chairman if he resigns such office or if his appointment as such Chairman is terminated by the Minister or if he ceases to be a member of the Corporation.

5. The objects of the Corporation shall be—

Objects of the Corporation. t§ 6, 49 of 1979.]

(a) to manage agricultural and estate lands vested in, transferred or alienated to the Corporation by the Government or any other person or acquired by the Corporation, and to promote optimum productivity on such lands;

(b) to co-ordinate and manage agricultural crops by rehabilitating existing crops or diversifying crops on such lands;

(c) to raise livestock on such lands ;

(d) to process and sell agricultural produce;

(e) to establish, maintain and operate plant, equipment and machinery for agricultural purposes on such lands;

(f) to manage, administer and supervise business undertakings vested in, transferred or alienated to the Corporation by the Government or any other person, or acquired by the Corporation;

(g) to perform functions connected with secretarial work, accounting and audit in relation to the business of the Corporation;

(h) to provide a comprehensive management service in respect of its plantation business;

(i) to carry out all such measures as are deemed necessary in the interest of the proper management of such lands; and

(j) to carry out any other business incidental to the operation and management of the Corporation.

Powers of the Corporation.

6. (1) The Corporation shall have the power to acquire and hold and to take on hire or lease any movable or immovable property and to give on hire or lease or to sell or otherwise dispose of any of its properties:

[§7,49 of 1979.]

Provided that no immovable property of the Corporation shall be given on hire, leased, sold or otherwise disposed of, without the prior approval in writing of the Minister.

[§7, 49 of 1979.]

(2) The Corporation shall have the power—

(a) to engage in any agricultural, industrial or commercial enterprise connected with or incidental to any of the objects of the Corporation ;

(b) to establish, maintain and provide welfare and other recreational facilities, houses, hostels and other recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Corporation;

(c) to enter into and perform, either directly or indirectly, through any member, officer, servant or agent of the Corporation all such contracts or agreements as may be necessary for the exercise of the powers and the carrying out of the objects of the Corporation;

(d) to do anything necessary for the purpose of advancing the skill of persons employed by the Corporation, or the efficiency of the equipment of the Corporation, or the manner in which that equipment is operated, including the provision by the Corporation, and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Corporation; and

(e) to do anything necessary for, or conducive or incidental to, the carrying out of the objects of the Corporation.

(3) The Corporation may, with the consent of the Minister and with the concurrence of the Minister in charge of the subject of Finance, or in accordance with the terms of any general authority given by him with such concurrence, borrow such sums as the Corporation may require for the carrying out of the objects of the Corporation. The funds of the Corporation shall be applied in paying the interest on, and the amount of, sums so borrowed.

[§2,12 of 1962.]

7. (1) The initial capital of the Corporation shall be determined by resolution of Parliament, and the amount of such capital shall be paid to the Corporation out of the Consolidated Fund.

Capital of the Corporation.

(2) 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 to the Corporation out of the Consolidated Fund.

8. The Corporation shall pay to a general or special reserve of the Corporation such amount out of the profits of the Corporation in each year as may be determined by the Corporation with the approval of the Minister and shall pay the balance of such profits to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund.

Profits of the Corporation.

9. (1) An absolute grant of any State land that is required by the Corporation for the purpose of raising, developing, maintaining and managing a plantation approved by the Minister may, with the approval of the Government, be granted to the Corporation under the State Lands Ordinance.

Grant of State land to be planted by, and assignment of the management of planted State land to, the Corporation.

(2) The Minister for the time being in charge of the subject of State lands may assign to the Corporation the management of any planted State land.

10. (1) The seal of the Corporation may be altered in such manner as may be determined by the Corporation.

Seal of the Corporation.

(2) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two members of

the Corporation both of whom shall sign the instrument or document in token of their presence.

concurrence of the Minister in charge of the subject of Finance.

Employees of the Corporation.

11. (1) The Corporation may employ, on such terms and conditions as may be determined by the Corporation, such persons as the Corporation considers necessary for performing the work of the Corporation.

14. (1) The accounts of the Corporation Audit. shall be audited annually by an auditor (hereinafter referred to as the auditor) appointed by the Minister on the advice of the Auditor-General. The auditor so appointed shall be an auditor who is registered under the Companies Ordinance.* The auditor shall receive such remuneration from the funds of the Corporation as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(2) At the request of the Corporation, any officer of 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 Corporation for such period as may be determined by the Corporation with like consent or be permanently appointed to such staff. The provisions of subsections (2) and (3) of section 26 of the Government-Sponsored Corporations Act shall, *mutatis mutandis*, apply in relation to any officer in the public service who is temporarily or permanently appointed to the staff of the Corporation.

(2) The Auditor-General shall have power—

(3) Where the Corporation 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 Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(a) to direct the manner in which the Corporation's accounts 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 the auditor, and

Pension schemes, &c., for employees of the Corporation.

12. The Corporation may establish and regulate a pension scheme or provident fund for the payment of pensions, gratuities or retiring allowances to employees of the Corporation and a widows' and orphans' pension fund or scheme for providing pensions to the widows and orphans of deceased employees of the Corporation, and may require contributions to be made to any such scheme or fund by employees of the Corporation and may deduct such contributions from the salaries or wages of such employees and may make contributions to any such scheme or fund from the revenues of the Corporation.

(b) to conduct a supplementary or test audit of the Corporation's accounts by such person or persons as the Auditor-General may authorize in that behalf, and, for the purpose 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.

Accounts.

13. The accounts of the Corporation shall be kept in such manner as may be approved by the Minister with the

(3) The auditor shall examine the accounts of the Corporation and submit to the Auditor-General a report stating—

(a) whether he has or has not obtained all the information and explanations required by him, and

(b) whether the balance sheet and 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.

(4) The Auditor-General shall have the right to comment upon, or supplement, the

Repealed and replaced by the Companies Act, No. 17 of 1982.

auditor's report in such manner as the Auditor-General may think fit.

exercise of any of the powers of the Corporation.

(5) The Auditor-General shall transmit the auditor's report together with the Auditor-General's comments upon, or his supplement to, such report to the Chairman of the Corporation.

18. The Minister may, after consulting the members of the Corporation, issue to them from time to time general or special directions in regard to the exercise of the powers and the performance of the duties of the Corporation, and such directions shall be carried out by them.

Directions of the Minister.

Annual report.

15. The Chairman of the Corporation shall cause a report of the Corporation's work and finances during each completed year to be prepared and submitted to the members of the Corporation for approval. Such report as approved by such members with or without amendments shall be the report of the Corporation for the year to which such report relates.

19. (1) Subject to the other provisions of this section, the members of the Corporation may regulate the procedure for the transaction of the business of the Corporation.

Proceedings of the Corporation.

Documents to be transmitted to the Minister and to be placed before Parliament.

16. (1) The Chairman of the Corporation shall, on receipt of the auditor'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:—

(2) Every question for determination by the members of the Corporation shall be determined by resolution passed at a meeting of such members.

(3) Three members of the Corporation shall constitute a quorum for any meeting of such members.

- (a) Report of the Corporation.
- (b) A copy of the auditor's report together with the Auditor-General's comments (if any) upon, and his supplement (if any) to, such report.
- (c) Profit and Loss Account.
- (d) Balance Sheet.

(4) The Chairman of the Corporation shall, if present, preside at any meeting of the members of the Corporation, and, in his absence, the members present at such meeting may elect one of them to preside at such meeting.

(5) No proceedings of any meeting of the members of the Corporation shall be invalidated by reason of any vacancy in the membership of the Corporation or any defect in the appointment of any member of the Corporation.

(2) The Minister shall lay copies of the documents transmitted to him under subsection (1) before Parliament not later than the thirty-first day of December in the year following the year to which such report and accounts relate.

Exercise of the powers of the Corporation.

17. Subject to the provisions of section 18, the members of the Corporation shall have the general control of the affairs of the Corporation and may exercise the powers of the Corporation:

20. Where any land, other than State land, is required to be acquired for any of the purposes of the Corporation and the Minister, by Order published in the Gazette, approves of the proposed acquisition, the land proposed to be acquired shall, for the purpose of the application of the Land Acquisition Act, be deemed to be required for a public purpose and may be acquired under that Act and transferred to the Corporation.

Acquisition of land under Acquisition Act for the Corporation.

Provided that the members of the Corporation may by resolution passed at a meeting of such members delegate to any member or employee of the Corporation the

SRI LANKA STATE PLANTATIONS CORPORATION [Cap.264

Regulations.

21. (1) The Minister may make regulations to give effect to the principles and provisions of this Act.

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

22. In this Act unless the context otherwise requires—

"Chairman of the Corporation" includes an acting Chairman of the Corporation, and

"member of the Corporation" includes an acting member of the Corporation.

CHAPTER 503

SREE NARAYANA GURU SOCIETY

Act
No. 48 of 1980.

AN ACT TO INCORPORATE THE SREE NARAYANA GURU SOCIETY OF SRI LANKA.

[10th November. 1980.]

Short title.

1. This Act may be cited as the Sree Narayana Guru Society of Sri Lanka Act.

peace and harmony among the people of the world ,

Incorporation of the Sree Narayana Guru Society of Sri Lanka.

2. From and after the date of commencement of this Act such and so many persons as now are members of the Sree Narayana Guru Society of Sri Lanka (hereinafter referred to as " the Society "), 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 " Sree Narayana Guru Society of Sri Lanka ", 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.

(f) to establish and maintain voluntary charitable organizations for any one or more of the following purposes:—

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

(i) the relief of poverty and ignorance;

(ii) the care of orphans, the aged, and the destitute by the establishment of homes, orphanages and dispensaries;

(iii) the relief of hunger, disease and sickness by the provision of sustenance and nourishment and medical care to the needy, the orphans, the indigent and the sick;

(a) to promote the study of and research into the publications of the teachings, ideals and philosophy of Sree Narayana Guru;

(b) to encourage the practice of his teachings, ideals and philosophy;

(c) to establish, conduct and assist institutions founded on the ideals, teachings and philosophy of Sree Narayana Guru;

(d) to assist in the promotion of racial, religious and communal harmony and eradication of social disabilities;

(e) to co-operate with local and foreign organizations in the pursuit of

(iv) the establishment of a scholarship fund for the provision of financial aid to any person, irrespective of caste, creed, colour or race, for higher studies and research on the teachings, ideals, and philosophy of Sree Narayana Guru at any place of learning in Sri Lanka or abroad;

(v) the establishment in Sri Lanka of a centre for the study and research into aspects of the teachings, ideals and philosophy of Sree Narayana Guru and all matters connected therewith, and

(vi) generally the carrying on of all such work as may be necessary to attain the aforesaid objects;

(g) to maintain, renovate or reconstruct the Sree Narayana Guru Memorial Malayalee Hall at No. 133, Layards Broadway, Colombo 14; and

(h) to impart knowledge and education to the people by conducting lectures, classes, libraries, seminars, and cultural and other constructive activities.

(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 the votes of two-thirds of the members present and voting at a general meeting of the Corporation.

(3) The rules of the Society 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.

6. All debts and liabilities of the Society 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 Society shall be paid to the Corporation for the purposes of this Act.

Debts due by and payable to the Society.

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 Trustees, duly authorized, 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.

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 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

Borrowing powers

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 Trustees assisted by a Working Committee consisting of such number of persons to be elected in accordance with the rules in force for the time being of the Corporation.

Board of Trustees assisted by a Working Committee.

(2) The first Board of Trustees of the Corporation shall be the members of the Board of Trustees of the Society holding office at the time of the coming into operation of this Act.

(3) The first Working Committee of the Corporation shall be the members of the Working Committee of the Society holding office at the time of the coming into operation of this Act.

5. (1) It shall be lawful for the Corporation, from time to time, at a general meeting and by the votes of two-thirds of the members present and voting to make rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the Board of Trustees, of the Working 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.

Rules of the Corporation.

objects and for such purpose, to create, execute, or incur any mortgages, bonds or obligations:

determined by the Board of Trustees.

Provided that the aggregate of the amounts which may be so raised by the Corporation shall not exceed the sum

10. 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 the rights of the Republic and other.

CHAPTER 93

SALE OF GOODS

Ordinance No. 11 of 1896.

AN ORDINANCE TO AMEND AND CODIFY THE LAW RELATING TO THE SALE OF GOODS.

[1st January, 1897.]

Short title. 1. This Ordinance may be cited as the Sale of Goods Ordinance.

"Necessaries" in this section means goods suitable to the condition in life of such minor or other person, and to his actual requirements at the time of the sale and delivery.

PART I

FORMATION OF THE CONTRACT

FORMALITIES OF THE CONTRACT

CONTRACT OF SALE

Sale and agreement to sell.

2. (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called "the price". There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called "a sale"; but where the transfer of the property in the goods is to take place at a future time, or subject to some condition thereafter to be fulfilled, the contract is called "an agreement to sell".

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Capacity to buy and sell.

3. Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property:

Provided that where necessaries are sold and delivered to a minor, or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefor.

4. Subject to the provisions of this Ordinance and of any enactment in that behalf, a contract of sale may be made in writing, or by word of mouth, or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties:

Contract of sale how made.

Provided that nothing in this section shall affect the law relating to corporations.

5. (1) A contract for the sale of any goods shall not be enforceable by action unless the buyer shall accept part of the goods so sold, and actually receive the same, or pay the price or a part thereof, or unless some note or memorandum in writing of the contract be made and signed by the party to be charged or his agent in that behalf.

No contract to be in force unless in writing and signed.

(2) The provisions of this section apply to every such contract, notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured, or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof or rendering the same fit for delivery.

(5) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognizes a pre-existing contract of sale, whether there be an acceptance in performance of the contract or not.

SUBJECT-MATTER OF CONTRACT

appropriated by the buyer he must pay a reasonable price therefor.

Existing or future goods.

6. (1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods",

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault.

(2) There may be a contract for the sale of goods, the acquisition of which by the seller depends upon a contingency which may or may not happen.

CONDITIONS AND WARRANTIES

11. (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. Stipulations as to time of payment.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

(2) In a contract of sale "month" means prima facie calendar month.

Goods which have perished.

7. Where there is a contract for the sale of specific goods, and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void.

12. (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to treat the breach of such condition as a breach of warranty, and not as a ground for treating the contract as repudiated. When condition to be treated as warranty.

Goods perishing before sale, but after agreement to sell.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer, the agreement is thereby avoided.

(2) Whether a stipulation in a contract of sale is a condition, the breach of which may give rise to a right to treat the contract as repudiated, or a warranty, the breach of which may give rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract. A stipulation may be a condition though called a warranty in the contract.

THE PRICE

Ascertainment of price.

9. (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed, or may be determined by the course of dealing between the parties.

(3) Where a contract of sale is not severable, and the buyer has accepted the goods or part thereof, or where the contract is for specific goods, the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as a ground for rejecting the goods and treating the contract as repudiated, unless there be a term of the contract, expressed or implied, to that effect.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell at valuation.

10. (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party, and such third party cannot or does not make such valuation, the agreement is avoided:

(4) Nothing in this section shall affect the case of any condition or warranty, fulfilment of which is excused by law by reason of impossibility or otherwise.

Provided that if the goods or any part thereof have been delivered to and

Implied undertaking as to title, &c.

13. In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is—

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;
- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made.

trade name, there is no implied condition as to its fitness for any particular purpose.

- (2) Where goods are bought by description from a seller who deals in goods of that description (whether he be the manufacturer or not), there is an implied condition that the goods shall be of merchantable quality;

Provided that if the buyer has examined the goods there shall be no implied condition as regards defects which such examination ought to have revealed.

- (3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
- (4) An express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith.

Sale by description.

14. Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and if the sale be by sample, as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

SALE BY SAMPLE

Implied conditions as to quality or fitness.

15. Subject to the provisions of this Ordinance and of any enactment in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows ;—

- (1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not), there is an implied condition that the goods shall be reasonably fit for such purpose:

Provided that in the case of a contract for the sale of a specified article under its patent or other

16. (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect,

Sale by sample.

(2) In the case of a contract for sale by sample—

- (a) there is an implied condition that the bulk shall correspond with the sample in quality;
- (b) there is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;
- (c) there is an implied condition that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample,

PART II

EFFECTS OF THE CONTRACT

TRANSFER OF PROPERTY AS BETWEEN
SELLER AND BUYER

Goods must be ascertained.

17. Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Property passes when intended to pass.

18. (1) Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties, and the circumstances of the case.

Rules for ascertaining intention.

19. Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer: •

Rule 1.— where there is an unconditional contract for the sale of specific goods, in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment or the time of delivery, or both, be postponed.

Rule 2.—Where there is a contract for the sale of specific goods, and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing be done and the buyer has notice thereof.

Rule 3.—Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test, or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing be done and the buyer has notice thereof.

Rule 4.—When goods are delivered to the buyer on approval, or " on sale or return ", or other similar terms, the property therein passes to the buyer—

(a) when he signifies his approval or acceptance to the seller, or does any other act adopting the transaction;

(b) if he does not signify his approval or acceptance to the seller, but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact'.

Rule 5. —(1) Where there is a contract for the sale of unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

(2) Where in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

20. (1) Where there is a contract for the sale of specific goods, or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain

Reservation of right of disposal

conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled,

goods to dispose of them as if he were the true owner thereof;

- (6) the validity of any contract of sale under any statutory power of sale or under the order of a court of competent jurisdiction.

(2) Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is prima facie deemed to reserve the right of disposal.

23. When the seller of goods has a voidable title thereto, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

Sale under voidable title.

(3) Where the seller of goods draws on the buyer for the price, and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

24. (1) Where goods have been stolen and the offender is prosecuted to conviction, the property in the goods so stolen re-vests in the person who was the owner of the goods, or his personal representative, notwithstanding any intermediate dealing with them.

Re-vesting of property in stolen goods on conviction of offender.

(2) Notwithstanding any enactment to the contrary, where goods have been obtained by fraud or other wrongful means not amounting to theft, the property in such goods shall not re-vest in the person who was the owner of the goods, or his personal representative, by reason only of the conviction of the offender.

Risk prima facie passes with property.

21. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer's risk, whether delivery has been made or not:

Provided that where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault;

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

TRANSFER OF TITLE

Sale by person not the owner.

22. (I) Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

(2) Provided also that nothing in this Ordinance shall affect—

- (a) the provisions of any enactment enabling the apparent owner of

25. (1) Where a person having sold goods continues or is in possession of the goods, or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge, or other disposition thereof, to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

Seller or buyer in possession after sale.

(2) Where a person having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title, under any sale, pledge, or other disposition thereof, to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, shall have the same effect as if the person

making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(3) In this section the term " mercantile agent " shall mean a mercantile agent having in the customary course of his business as such agent authority either to sell goods, or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods.

26. A writ of execution against goods shall bind the property in the goods of the execution-debtor as from the time when the writ is delivered to the Fiscal to be executed ; and, for the better manifestation of such time, it shall be the duty of the Fiscal, without fee, upon the receipt of any such writ, to endorse upon the back thereof the hour, day, month, and year when he received the same:

Provided that no such writ shall prejudice the title to such goods acquired by any person in good faith and for valuable consideration, unless such person had at the time when he acquired his title notice that such writ or any other writ, by virtue of which the goods of the execution-debtor might be seized or attached, had been delivered to and remained unexecuted in the hands of the Fiscal.

PART III

PERFORMANCE OF THE CONTRACT

27. It is the duty of the seller to deliver the goods, and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

28. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer must be ready and willing to pay the price in exchange for possession of the goods.

29. (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question

depending in each case on the contract, express or implied, between the parties. Apart from any such contract, express or implied, the place of delivery is the seller's place of business, if he have one, and if not, his residence;

Provided that, if the contract be for the sale of specific goods, which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller.

30. (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he must pay for them at the contract rate. Delivery of wrong quantity.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included

Effect of writs of execution.

Duties of seller and buyer.

Payment and delivery are concurrent conditions.

Rules as to delivery.

in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement, or course of dealing between the parties.

31. (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments, which are to be separately paid for, and the seller makes defective deliveries in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case, depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

32. (1) Where, in pursuance of a contract of sale, the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, is prima facie deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer, the seller must make such contract with the carrier on behalf of the buyer as may be reasonable, having regard to the nature of the goods and the other circumstances of the case. If the seller omits to do so and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit,

and, if the seller fails to do so, the goods shall be deemed to be at his risk during such sea transit.

33. Where the seller of goods agrees to deliver them, at his own risk, at a place other than that where they are when sold, the buyer must, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

34. (1) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

35. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

36. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

37. When the seller is ready and willing to deliver the goods, and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the

Risk where goods are delivered at distant places.

Buyer's right of examining the goods.

Acceptance.

Buyer not bound to return rejected goods.

Liability of buyer for neglecting or refusing delivery of goods.

Instalment deliveries.

Delivery to carrier.

neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

stoppage *in transitu* where the property has passed to the buyer.

UNPAID SELLER'S LIEN

PART IV

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Unpaid seller defined.

38. (1) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Ordinance—

- (a) when the whole of the price has not been paid or tendered ;
- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Part of this Ordinance the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

Unpaid seller's rights.

39. (1) Subject to the provisions of this Ordinance and of any enactment in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law—

- (a) a lien on the goods or right to retain them for the price while he is in possession of them;
- (b) in case of the insolvency of the buyer, a right of stopping the goods *in transitu* after he has parted with the possession of them;
- (c) a right of re-sale as limited by this Ordinance.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and

40. (1) Subject to the provisions of this Ordinance, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely :—

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit, but the term of credit has expired;
- (c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

41. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien or retention on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention.

42. (1) The unpaid seller of goods loses his lien or right of retention thereon—

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods ;
- (b) when the buyer or his agent lawfully obtains possession of the goods;
- (c) by waiver thereof.

(2) The unpaid seller of goods, having a lien or right of retention thereon, does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods.

STOPPAGE IN TRANSITU

43. Subject to the provisions of this Ordinance, when the buyer of goods becomes insolvent the unpaid seller who has

Sellers lien.
 Sellers lien.
 Termination of lien-
 Right of stoppage in transitu

parted with the possession of the goods has the right of stopping them in *transitu*; that is to say, he may resume possession of the goods as long as they are in course of transit, and may retain them until payment or tender of the price.

Duration of transit .

44. (1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier by land or water, or other bailee, for the purpose of transmission to the buyer, until the buyer, or his agent in that behalf, takes delivery of them from such carrier or other bailee.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer, or his agent, that he holds the goods on his behalf, and continues in possession of them as bailee for the buyer, or his agent, the transit is at an end, and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer, and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer, or his agent in that behalf, the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer, or his agent in that behalf, the remainder of the goods may be stopped *in transitu*. unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods.

45. (1) The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

How stoppage *in transitu* is effected.

(2) When notice of stoppage *in transitu* is given by the seller to the carrier, or other bailee in possession of the goods, he must re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery must be borne by the seller.

RE-SALE BY BUYER OR SELLER

46. Subject to the provisions of this Ordinance, the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto :

Effect of sub-sale or pledge by buyer.

Provided that where a document of title to goods has been lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if such last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated, and if such last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee.

47. (1) Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

Sale not generally rescinded by lien or stoppage *in transitu*

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage *in transitu* re-sells the goods, the buyer acquires a good title thereto as against the original buyer.

SALE OF GOODS

(3) Where the goods are of a perishable nature, or where the unpaid seller gives notice to the buyer of his intention to re-sell, and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may re-sell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and on the buyer making default re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages.

or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept.

REMEDIES OF THE BUYER

50. (1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.

(2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the seller's breach of contract.

(3) Where there is an available market for the goods in question, the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver.

51. In any action for breach of contract to deliver specific or ascertained goods the court may, if it thinks fit, on the application of the plaintiff, by its judgment or decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The judgment or decree may be unconditional, or upon such terms and conditions as to damages, payment of the price, and otherwise as to the court may seem just. And the application by the plaintiff may be made at any time before judgment or decree.

52. (1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

- (a) set up against the seller the breach of warranty in diminution or extinction of the price; or
- (b) maintain an action against the seller for damages for the breach of warranty.

PART V

ACTIONS FOR BREACH OF THE CONTRACT

REMEDIES OF THE SELLER

Action for price.

48. (1) Where, under a contract of sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods.

(2) Where, under a contract of sale, the price is payable on a day certain irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price, although the property in the goods has not passed and the goods have not been appropriated to the contract.

Damages for non-acceptance.

49. (1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

(2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price at the time

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting, in the ordinary course of events, from the breach of warranty.

(3) In the case of breach of warranty of quality, such loss is prima facie the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him for maintaining an action for the same breach of warranty if he has suffered further damage.

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until such announcement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person. Any sale contravening this rule may be treated as fraudulent by the buyer.

(4) A sale by auction may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller.

Interest and special damages.

53. Nothing in this Ordinance shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed.

Where a right to bid is expressly reserved, but not otherwise, the seller, or any *one* person on his behalf, may bid at the auction.

PART VI

SUPPLEMENTARY

Exclusion of implied terms and conditions.

54. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage be such as to bind both parties to the contract.

58. (1) The rules in insolvency relating Savings. to contracts of sale shall continue to apply thereto, notwithstanding anything in this Ordinance contained.

Reasonable time a question of fact.

55. Where by this Ordinance any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

(2) The rules of the English law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Ordinance, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress, or coercion, mistake, or other invalidating cause, shall apply to contracts for the sale of goods.

Rights, &c., enforceable by action.

56. Where any right, duty, or liability is declared by this Ordinance, it may, unless otherwise by this Ordinance provided, be enforced by action.

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge, or other security.

Auction sales.

57. In the case of a sale by auction—

(1) Where goods are put up for sale by auction in lots, each lot is prima facie deemed to be the subject of a separate contract of sale.

(4) Nothing in this Ordinance shall prejudice or affect the landlord's right of hypothec or lien for rent.

Interpretation. 59. (1) In this Ordinance, unless the context or subject-matter otherwise requires—

"action " includes claim in reconvention;

" buyer" means a person who buys or agrees to buy goods ;

"contract of sale " includes an agreement to sell as well as a sale ;

" delivery " means voluntary transfer of possession from one person to another;

" document of title to goods " includes any bill of lading, dock warrant, warehouse-keeper's certificate, and warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented;

" fault " means wrongful act or default ;

" future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;

" goods" include all movables except moneys. The term includes growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale ;

" lien " includes the right of retention;

"plaintiff" includes the defendant claiming in reconvention;

" property " means the general property in goods and not merely a special property;

" quality of goods " includes their state or condition;

" sale " includes a bargain and sale as well as a sale and delivery ;

" seller" means a person who sells or agrees to sell goods;

"specific goods" mean goods identified and agreed upon at the time a contract of sale is made ;

"warranty" means an agreement with reference to goods which are the subject of a contract of sale. but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages. but not to a right to reject the goods and treat the contract as repudiated.

(2) A thing is deemed to be done " in good faith" within the meaning of this Ordinance when it is in fact done honestly, whether it be done negligently or not.

(3) A person is deemed to be insolvent within the meaning of this Ordinance, who either has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due. whether he has committed an act of insolvency or not, and whether he has become an insolvent or riot.

(4) Goods are in a " deliverable state" within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them.

CHAPTER 9

SPECIAL PRESIDENTIAL COMMISSIONS OF INQUIRY

Law
No. 7 of 1978,

Act
No. 4 of 1978.

A LAW TO ENABLE THE ESTABLISHMENT OF SPECIAL PRESIDENTIAL COMMISSIONS OF INQUIRY. TO PROVIDE FOR THE APPOINTMENT OF THE MEMBERS THEREOF. TO PRESCRIBE THEIR POWERS AND PROCEDURE, TO FACILITATE THE PERFORMANCE OF THEIR FUNCTIONS, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.

[10th February, 1978.]

Short title.

1. This Law may be cited as the Special Presidential Commissions of Inquiry Law.

(c) contain the terms of reference of the commission ;

Establishment of Special Presidential Commissions of Inquiry.

2. (I) Whenever it appears to the President to be necessary that an inquiry should be held and information obtained as to-

(d) include a direction whether the inquiry or any part thereof shall or shall not be held in public ; and

(a) the administration of any public body or local authority;

(e) require the rendering of such reports, including interim reports, as to the commission may appear fit.

(b) the administration of any law or the administration of justice;

(c) the conduct of any public officer ; or

(d) any matter in respect of which an inquiry will, in his opinion, be in the public interest or be in the interest of public safety or welfare,

(3) Where, before the proceedings of any commission are concluded, any member of that commission reaches the age of retirement provided by law for retirement, he shall, notwithstanding such retirement, continue to hold office as a member of that commission, until the conclusion of the proceedings of that commission.

the President may, by warrant under the Public Seal of the Republic of Sri Lanka, establish a Special Presidential Commission of Inquiry consisting of such member or members, each of whom shall be a Judge of the Supreme Court or of any other court not below a District Court as shall be specified in the warrant, to inquire, into and report upon such administration, conduct or matter.

(4) It shall be lawful for the President to state in the warrant the terms of reference of the commission in general terms and it shall be competent for the commission to determine the scope of the inquiry and to select specific matters which, in the opinion of the commission, should be inquired into and reported upon, and accordingly the terms of reference so set out may refer to the matters that should be inquired into and reported upon without limitation or restriction in relation to one or more or all of the matters set out in subsection (1) in the manner set out or substantially in the manner set out in the said subsection. [2, 4 of 1978.]

[2. 4 of 1978.]

(IA) A warrant issued under subsection (1) may relate to any period whatsoever including any period before the date of commencement of this Law.

(2) Every warrant issued under this Law shall-

(a) set out the name of the member or each of the members of the commission;

(b) where a commission consists of more than one member, specify the member who is to be the chairman of the commission ,

(5) Where a warrant establishing a commission is issued by the President under the preceding provisions of this section, such warrant shall be final and conclusive and shall not be called in question in any court or tribunal by way of writ or otherwise.

Appointment of new members.

3. (1) Where any member of a commission dies, or resigns, or desires to be discharged from the performance of his duties in respect of the whole or part of an inquiry, or refuses or becomes unable to act, the President may appoint a new member in his place for the whole or any part of such inquiry.

(2) Until such appointment is made, the inquiry may continue before the remaining members of the commission, and if no such appointment is made, the inquiry shall continue and be concluded before the remaining members of the commission.

(3) Where a new member has been appointed under the provisions of subsection (1) it shall not be necessary for any evidence which may have been taken before the commission prior to such appointment to be retaken and the commission shall be entitled to continue its proceedings from the stage at which they were immediately prior to such appointment:

Provided, however, that where a commission consists of only one member, the inquiry shall commence *de novo*.

Enlargement of time.

4. The President may, from time to time, by endorsement under his hand on the warrant issued under this Law, enlarge the time for the rendering of the report of the commission established by such warrant, whether the time for the rendering of such report has expired or not.

Alteration, amendment or revocation of warrant.

5. The President may at any time alter for the purposes of section 3 or section 4, or amend in any manner the terms of reference of, or revoke, any warrant issued under this Law.

Change of President.

6. No warrant issued under this Law shall lapse by reason of, or be otherwise affected by, the death, absence from Sri Lanka, resignation or removal of the President who issued the warrant, or by his otherwise ceasing to hold the office of President.

Powers of Commission and additional powers that may be conferred at the request of the Commission.

7. (1) A commission established under this Law shall have the following powers :-

- (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the commission may think it necessary or desirable to procure or examine;

- (b) to require the evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the commission an oath or affirmation to every such witness;

- (c) to summon any person to attend any meeting of the commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;

- (d) notwithstanding any of the provisions of the Evidence Ordinance, or of any other written law, to admit any evidence, whether written or oral, which might be inadmissible in any court in civil or criminal proceedings;

- (e) subject to any direction contained in the warrant-

- (i) to admit or exclude the public to or from the inquiry or any part thereof;

- (ii) to admit or exclude the press to or from the inquiry or any part thereof; or

- (f) to recommend that any person whose conduct is the subject of inquiry under this Law or who is in any way implicated or concerned in the matter under inquiry, be awarded such sum of money as, in the opinion of the commission, may have been reasonably incurred by such person as costs and expenses in connexion with the inquiry.

In this paragraph, "costs and expenses " includes the costs of representation by an attorney-at-law, and travelling and other expenses incidental to the inquiry or consequential upon the inquiry or consequential upon the attendance of such person at the inquiry.

(2) All or any of the following powers may be conferred by the President on a commission established under this Law, if the commission so requests :-

[§3,4 of 1978.]

(a) to require by written notice, the manager of any bank or lending institution in Sri Lanka or any officer thereof, to produce, as specified in the notice, any book or document of the bank or lending institution containing entries relating to the account of, or any other document relating to any transaction with any person whose conduct is being inquired into by the commission, or of the spouse or a son or daughter of such person, or of any other person specified by the commission, or to furnish, as so specified in the notice certified copies of such entries ;

[§3,4 of 1978.]

(b) to require by written notice the Commissioner-General of Inland Revenue or the Controller of Exchange, or any officer of the Department of Inland Revenue or the Central Bank, to furnish, as specified in the notice, all information available to such official relating to the affairs of any person, whose conduct is being inquired into by the commission, or of the spouse or a son or daughter of such person, or of any other person specified by the commission and to produce or furnish, as so specified in the notice, any document or a certified copy of any document, relating to such person, spouse, son or daughter, or other person, as the case may be, which is in the possession, or under the control of, such official;

(c) to prohibit by written order, the manager of any bank in Sri Lanka from permitting or allowing the withdrawal of any funds standing to the credit of any account in that bank of any such person specified in the order as the commission considers necessary, except any such reasonable withdrawal of such funds as may, from time to time, be approved in writing by the commission ;

(d) to require by written order the Controller of Immigration and Emigration to impound the passport and other travel documents of any such person as shall be specified in the order, being a person whose evidence or presence may be necessary at any inquiry before the commission, until such time as such order is revoked by the commission by a subsequent written order, if any, issued to such Controller ;

(e) to require by written order any such police officer as shall be specified in that order, whether by name or by office, to take all such steps as may be necessary to prevent the departure from Sri Lanka of any such person as shall be so specified, being a person whose evidence or presence may be necessary at any inquiry before the commission, until such time as such order is revoked by the commission by a subsequent written order, if any, issued to such officer;

(f) to require by written order any such telecommunication authority or officer (within the meaning of the Telecommunications Ordinance) as shall be specified in the order, whether by name or by office, to produce as so specified, any book or document containing entries relating to any message (within the meaning of that Ordinance), including any telex message, which is in the possession or under the control of any such authority or officer as the commission considers necessary, or to furnish, as so specified, certified copies of such entries.

(3) The commission shall have power to call for representations from the public relating to matters within the scope of its terms of reference, whether expressly specified therein or not, and to inquire into and report upon any such representations.

(4) A commission established under this Law may exercise any power conferred on the commission under subsection (1) and any person to whom the commission issues any

direction in the exercise of such power shall carry out such direction notwithstanding anything to the contrary in any other law.

Members of commission to be public servants and inquiries to be "judicial proceedings" under the Penal Code.

8. The members of a commission shall, so long as they are acting as such members, be deemed to be public servants within the meaning of the Penal Code, and every inquiry under this Law shall be deemed to be a Judicial proceeding within the meaning of that Code.

Imposition of civic disabilities.

9. (1) Where a commission finds at the inquiry and reports to the President that any person has been guilty of any act of political victimization, misuse or abuse of power, corruption or any fraudulent act, in relation to any court or tribunal or any public body, or in relation to the administration of any law or the administration of justice, the commission shall recommend whether such person should be made subject to civic disability, and the President shall cause such finding to be published in the Gazette as soon as possible, and direct that such report be published.

(2) Any report, finding, order, determination, ruling or recommendation made by a commission under this Law, shall be final and conclusive, and shall not be called in question in any court or tribunal by way of writ or otherwise.

(3) For the purpose of this section civic disability, shall mean the disqualification of a person-

- (i) from being an elector and from voting at any election of the President of the Republic, or at any election of a member of Parliament or of any local authority;
- (ii) from being nominated as a candidate at any such election ,
- (iii) from being elected or appointed as the President of the Republic or from being elected as a member of Parliament or of any local authority, and from sitting and voting as such member ; and
- (iv) from holding office, and from being employed, as a public officer.

Punishment of contempts. [§ 4.4 of 1978]

10. (1) Every offence of contempt committed against or in disrespect of, the authority of a commission established under

this Law shall be punishable by the Supreme Court established under the Constitution as though it were an offence of contempt committed against, or in disrespect of, the authority of such Court.

(2) An act done or omitted to be done in relation to the commission, whether in the presence of the commission or otherwise, shall constitute an offence of contempt against, or in disrespect of, the authority of that commission, if such act would, if done or omitted to be done in relation to the Supreme Court, have constituted an offence of contempt against, or in disrespect of, the authority of such Court.

(3) (a) Where a commission determines that a person has committed an offence of contempt against, or in disrespect of, its authority, the commission may cause its secretary to transmit to the Supreme Court a certificate setting out such determination; every such certificate shall be signed by the chairman of the commission, or where the commission consists of only one person, by that person.

(b) In any proceedings for the punishment of an offence of contempt which the Supreme Court may think fit to take cognizance of as provided in this section, any document purporting to be a certificate signed and transmitted to the Court under the preceding provisions of this subsection shall-

- (i) be received in evidence, and be deemed to be such a certificate without further proof unless the contrary is proved; and
- (ii) be conclusive evidence that the determination set out in the certificate was made by the commission and of the facts stated in the determination.

(c) In any proceedings taken as provided in this section for the punishment of any alleged offence of contempt against, or in disrespect of, the authority of any commission, no member of the commission shall, except with his own consent, be summoned or examined as a witness.

11. (1) Every summons shall, in any case where a commission consists of one member only, be under the hand of that member, and

Summons.

in any case where a commission consists of more than one member, be under the hand of the chairman of the commission :

Provided that where a person has been appointed under section 19 to act as secretary any such summons may, with the authority of the commission, be issued under the hand of such secretary.

(2) Any summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

(3) Every person on whom a summons is served shall attend before the commission at the time and place mentioned therein, and shall give evidence or produce such documents or other things as are required of him and are in his possession or power, according to the tenor of the summons.

(4) If any person fails, in answer to any summons issued under this section, to appear before the commission or to produce any document or article required by any such summons to be produced by him, such person shall be liable to be arrested and upon his arrest be produced forthwith before the commission and the commission may order the remand of that person to the custody of the Fiscal of the highest Court exercising original criminal jurisdiction within the judicial zone of Colombo or any other convenient zone or order his release upon such terms as the commission may determine.

Failure to obey summons to give evidence, &c.

12. (1) If any person upon whom a summons is served under this Law-

- (a) fails without cause, which in the opinion of the commission is reasonable, to appear before the commission at the time and place mentioned in the summons ; or
- (b) refuses to be sworn or affirmed or, having been duly sworn or affirmed, refuses or fails without cause, which in the opinion of the commission is reasonable, to answer any question put to him touching the matters directed to be inquired into by the commission ; or
- (c) refuses or fails without cause, which in the opinion of the commission is reasonable, to produce and show to

the commission any document or other thing which is in his possession or power and which is in the opinion of the commission necessary for arriving at the truth of the matters to be inquired into,

such person shall be guilty of the offence of contempt against, or in disrespect of, the authority of the commission.

For the purposes of this section, it shall not be deemed to be a reasonable cause for a person to refuse or fail to answer any question or to produce and show any document or other thing on the ground that the matter being inquired into by the commission is the same or substantially the same matter which, whether directly or indirectly, arises or is likely to arise in any proceedings in any court or on the ground that the answer to such question or the production of such document or other thing might directly or indirectly affect or cause prejudice to him in any other proceedings.

[§ 5, 4 of 1978.]

(2) Where a commission determines that a person has committed any offence of contempt under subsection (1) against, or in disrespect of, its authority, the commission may cause its secretary to transmit to the Supreme Court, a certificate setting out such determination ; every such certificate shall be signed by the chairman of the commission, or where the commission consists of only one person, by that person.

(3) In any proceedings for the punishment of an offence of contempt which the Supreme Court may think fit to take cognizance of as provided in section 10, any document purporting to be a certificate signed and transmitted to the Court under subsection (2) 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.

(4) In any proceedings taken as provided in section 10 for the punishment of any alleged offence of contempt against, or in disrespect of, the authority of any

commission, no member of the commission shall, except with his own consent, be summoned or examined as a witness.

Privileges of witnesses.

13. Every person who gives evidence before a commission established under this Law shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled to in respect of evidence given by him before such court.

Special immunity for witnesses.

14. Where the President in the warrant of establishment of a commission or by subsequent Order declares that this section shall apply in relation to such commission, the following provisions shall have effect, that is to say :-

- (a) subject as hereinafter provided, no person shall, in respect of any evidence, written or oral, given by that person to or before the commission at the inquiry, be liable to any action, prosecution or other proceedings in any civil or criminal court;
- (b) subject as hereinafter provided, no evidence of any statement made or given by any person to or before the commission for the purposes of the commission shall be admissible against that person in any action, prosecution or other proceedings in any civil or criminal court:

Provided, however, that nothing in the preceding paragraphs shall-

- (i) abridge or affect or be deemed or construed to abridge or affect the liability of any person to any prosecution or penalty for any offence under Chapter XI of the Penal Code, read with section 8 of this Law; or
- (ii) prohibit or be deemed or construed to prohibit the publication or disclosure of the name or of the evidence or any part of the evidence of any witness who gives evidence at the inquiry, for the purpose of the prosecution of that witness for any offence under Chapter XI of the Penal Code.

15. The presumptions which, under section 80 of the Evidence Ordinance, are applicable to the documents therein mentioned shall apply to every document produced before any court and purporting to be a record or memorandum of the evidence or any part of the evidence given by a witness examined before a commission established under this Law and purporting to be signed by the members thereof.

Presumption on production of record of evidence given by witnesses.

16. Every person who is specified in a warrant issued under this Law as a person whose conduct is the subject of an inquiry under this Law or as a person who is in any way implicated or concerned in the matter under inquiry and any person who, in the opinion of the commission, is a person whose conduct should be the subject of inquiry or in the opinion of the commission is in any way implicated or concerned in the matter under inquiry shall be so informed by the commission and shall, after he is so informed, be entitled to be represented by one or more attorneys-at-law at such stage of the inquiry as is relevant thereto; and any other person who may consider it desirable that he should be so represented may, by leave of the commission, be represented in the manner aforesaid.

Representation of persons by attorneys-at-law.

17. (1) On the conclusion of any inquiry under this Law, and on the recommendation of the commission, the Minister may by Order under his hand, award to any person whose conduct has been the subject of such inquiry or who has been in any way implicated or concerned in the matter under inquiry or to any bank or lending institution whose manager has complied with a notice issued in connexion with such inquiry by the commission in the exercise of powers conferred on the commission by the President under section 7 (2) (a) such sum of money as the Minister may, in his discretion, specify in the Order as sufficient to meet the costs and expenses which may have been reasonably incurred by such person or bank or lending institution in connexion with the inquiry.

Costs and other expenses.

In this subsection " costs and expenses " includes the costs of representation by an attorney-at-law, and travelling and other expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry, and, in the case of a bank or lending institution, the clerical,

travelling and other expenses consequential upon the compliance with the aforesaid notice.

(2) All moneys awarded by order of the Minister under subsection (1) shall be a charge upon the Consolidated Fund ; and the payment of all such moneys is hereby authorized.

Protection of members of commission, &c.

[§ 6, 4 of 1978.]

18. No civil or criminal proceedings shall be instituted against any member of a commission or, other than for contempt, against any other person in any manner assisting a commission in respect of any act done or omitted to be done by him as such member or such other person,

For the purposes of this section a person assisting a commission shall include any person employed by or executing or carrying out or complying with any order of a commission or any attorney-at-law appearing before a commission or a person who being a person noticed under section 16 is not represented by an attorney-at-law.

Applications to stand transferred to Supreme Court where at least one member of commission is a Judge of the Supreme Court or Court of Appeal and powers of courts in relation to a commission.

[§ 7, 4 of 1978.]

18 A. (1) Every application to the Court of Appeal in relation to any commission established or purported to have been established under this Law or any member thereof and every application to such Court to which such commission or a member thereof is a party shall, where such commission at the time it was so established or such application is made consists of at least one Judge who is or was a Judge of the Supreme Court or Court of Appeal or where such member at the time of his appointment as a member of a commission or at the time of the application is or was a Judge of the Supreme Court or of the Court of Appeal, stand transferred to the Supreme Court which shall in respect of such application have and exercise all the powers of the Court of Appeal and the Court of Appeal shall not have or exercise any power or jurisdiction to deal with such application.

(2) No court shall, notwithstanding anything to the contrary, have power or jurisdiction to make any order at any stage whatsoever and in any manner -

(a) staying, suspending or prohibiting the holding of any proceeding before or by any commission established by warrant issued by the President in

the exercise or purported exercise of the powers vested in the President under section 2 (1) or the making of any order, finding, report, determination, ruling or recommendation by any such commission ;

(b) setting aside or varying any order, finding, report, determination, ruling or recommendation of any such commission :

Provided that where by reason of the provisions of subsection (1) any application stands transferred to the Supreme Court, such Court may, only upon final determination of such application, make any such order which, in the lawful exercise of its jurisdiction, such Court may make :

Provided further, that where an application does not stand transferred by reason of the provisions of subsection (1). the Court of Appeal may, only upon final determination of such application, make any such order which in the lawful exercise of its jurisdiction, such Court may make, subject however, that such order shall take effect only upon final determination by the Supreme Court in accordance with and subject to such order which the Supreme Court may make or where no appeal is filed, only upon the expiry of the period within which an appeal may be filed in the Supreme Court.

18 B. No court shall grant an order staying the proceedings of any commission on the ground that any matter which is the subject of inquiry before the commission is the same matter or substantially the same matter which, whether directly or indirectly, arises or is likely to arise for consideration or determination in any proceedings before any court.

No stay of proceedings of a commission arising by reason of collateral proceedings.

[§ 7,4 of 1978]

19. (1) The President may appoint any person to act as secretary to a commission and such person shall perform such duties connected with the inquiry as the commission may order subject to the directions, if any, of the President.

Appointment of secretary and interpreters.

(2) A commission may appoint any person to act as interpreter in any matter arising at the inquiry and to translate any book, document, or other writing produced at the inquiry.

Process issued under this issue to be exempt from stamp duty.

20. No stamp duty shall attach to or be payable for any process issued by, or by the authority of, a commission established under this Law.

Service of process.

21. Every process issued by a commission established under this Law shall be served and executed by the Fiscal*, or in such manner as the commission may determine.

Effect of this Law notwithstanding inconsistencies

[§8, 4 of 1978.]

21 A. The provisions of this Law and any warrant issued under the provisions of this Law shall be so interpreted and given full force and effect in-order that any commission shall have full authority, power and jurisdiction to inquire into the conduct of any Prime Minister, Minister or other public officer including -

- (a) the misuse or abuse of power, interference, fraud, corruption or nepotism,
- (b) any political victimization of any person,
- (c) any irregularity -
 - (i) in the making of any appointment or transfer of any person,
 - (ii) in the granting of any promotion to any person,
 - (iii) in the termination of the services of any person,
- (d) the contravention of any written law,

by or on the part of any Prime Minister, Minister or other public officer and the extent to which he is so responsible, notwithstanding that the conferment of the authority, power or jurisdiction on a commission to hold an inquiry into such conduct may be or may have been or may be construed to be or to have been inconsistent with the provisions of section 46 (1) or any other section of the Ceylon (Constitution) Order in Council, 1946, or section 92 or section 106 (5) or any other section of the Constitution of Sri Lanka adopted and enacted on 22nd May, 1972.

22. In this Law, unless the context otherwise requires :-

" commission " means a Special Presidential Commission of Inquiry established under this Law;

" conduct of any public officer " includes the conduct of a public officer-

- (i) in relation to any court or tribunal or any public body;
- (ii) in relation to the administration of any law, or the administration of justice;
- (iii) in relation to the exercise or purported exercise or discharge of any power, function or authority and whether or not under the guise of such power, function or authority,

[§9,4 of 1971.]

and includes allegations of misuse or abuse of power, corruption, any fraudulent act, nepotism or political victimization by any public officer as are specified by the President in the warrant establishing a commission or as are made to such commission by any person; and notwithstanding that under the Constitution in force during the relevant period no court, tribunal or other institution has or had the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any such conduct and notwithstanding that under the Constitution in force during the relevant period any other body, court, tribunal or institution is or was empowered to inquire into, pronounce upon or in any manner call in question any such conduct, and notwithstanding that under the Constitution in force during the relevant period such person or the body to which such person belonged, was or is responsible or answerable to the legislature established under such Constitution in respect of such conduct;

*A separate Fiscal is now appointed to each Court under section 52 (I) of the Judicature Act.

" law " includes any Law, Act of Parliament, Ordinance and any delegated or subordinate legislation made under any Law, Act of Parliament or Ordinance;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

[9,4 of 1978.]

" Minister " includes the Prime Minister;

" public body " includes-

- (i) any Ministry and any department of Government,
- (ii) any public Corporation, Commission, Board or other institutiton,
- (iii) any public or local authority,
- (iv) any business undertaking, firm, company or other institutiton which was at any time during the period specified in the terms of reference of the commission vested in the Government or owned wholly or mainly by or on behalf of the Government,
- (v) any society registered or deemed to be registered under the Co-operative Societies Law or the Janawasa Law, and

(vi) any other body or institution of a like nature;

public officer " includes-

(i) any Minister, Deputy Minister or Member of the National State Assembly.

(ii) any State officer, including the holder of a judicial office or any office created or recognized by the Constitution in force at the relevant period, and [9,4 of 1978.]

(iii) any chairman, director, member, officer or employee, howsoever designated, of any public body, whether or not such person was in receipt of any remuneration, [9,4 of 1978]

and also includes any person who was a public officer at any time during the period specified in the terms of reference of the commission;

report " includes an interim report.

CHAPTER 457

SAIVA PARIPALANA SABHAI

Ordinance AN ORDINANCE TO INCORPORATE THE ASSOCIATION CALLED AND KNOWN AS THE
 No. 17 of 1931. SAIVA PARIPALANA SABHAI

[17th June, 1931.]

Short title. **1.** This Ordinance may be cited as the Saiva Paripalana Sabhai Ordinance.

Incorporation of the Saiva Paripalana Sabhai,

2. From and after the passing of this Ordinance the president, vice-presidents, secretary, assistant secretary, treasurer and other members of the executive committee for the time being, of the Saiva Paripalana Sabhai and such and so many persons as now are members of the said Saiva Paripalana Sabhai 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 Saiva Paripalana Sabhai" hereinafter referred to as the sabhai 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.

General objects of the sabhai.

3. The general objects for which the sabhai is constituted are hereby declared to be—

- (a) to promote and propagate the Saiva religion;
- (b) to establish, repair and renovate Saiva temples, to take over and manage such temples and supervise the management of such temples as may come under the control and authority of the sabhai;
- (c) to take over and manage Saiva *madams*, and properties belonging thereto and to devote their funds for the purpose for which they were established;

(d) to establish, maintain and manage Saiva schools and to publish readers and other books necessary for Saiva education;

(e) to establish, finance, maintain and manage newspapers to safeguard the interests of the Saiva community and to take all other measures necessary for the attainment of such object;

(f) to establish, maintain and manage crematoriums and hospitals, and to take charge of such establishments as are handed over to their management;

(g) to encourage and promote Tamil literature, art and drama,

4. (a) The affairs of the sabhai shall, subject to the rules in force for the time being of the sabhai as hereinafter provided in Schedule II*, be administered by a board of management consisting of a president, vice-presidents, the secretary, the assistant secretary and the treasurer and not less than fifteen and not more than twenty other members to be elected respectively in accordance with the rules and regulations for the time being of the sabhai.

Board of management

(b) All members of the sabhai shall be subject to the rules in force for the time being of the sabhai.

(c) The first board of management shall consist of the members whose names appear in Schedule I*, and their successors shall be elected in the manner provided by rules in Schedule II*.

• Schedules omitted,—Private enactment,

Power to make rules.

5. It shall be lawful for the board of management of the sabhai from time to time 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 board of management and of the various officers, agents and servants; for the procedure in the transaction of business; and generally for the management of the affairs of the sabhai and the accomplishment of its objects. Such rules when made may be altered, added to, amended or cancelled subject however to the requirements of section 7.

The rules in the Schedule¹ to be rules of the sabhai.

6. Subject to the provisions in section 5 contained, the rules set forth in Schedule II*, shall for all purposes be the rules of the sabhai:

Provided, however, that nothing in this section contained shall be held or construed to prevent the sabhai at all times hereafter from making fresh rules or from altering, amending, adding to or cancelling any of the rules in the said Schedule* or to be hereafter made by the sabhai.

Power to amend rules.

7. No rule in Schedule II* nor any rule hereafter made by the board of management shall be altered, added to, amended or cancelled except by a vote of two-thirds of the members of the board of management present at a meeting of the board of management.

Property vested in the sabhai.

8. On the coming into operation of this Ordinance all and every property belonging to the said sabhai whether held in the name of the sabhai or in the name or names of any person or persons, or body of persons in trust for the said sabhai, shall be and the same are hereby vested in the corporation hereby constituted and the same together with all after-acquired property both movable and immovable and all subscriptions, contributions, donations, amounts of loan or advance received or to be received and all moneys legally due to the said sabhai shall be held by the said corporation for the purposes of this Ordinance and subject to the rules and regulations in force for the time being of the said corporation.

9. The sabhai 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 sabhai for the purposes of this Ordinance and subject to the rules for the time being of the sabhai with full power to sell, mortgage, lease, exchange or otherwise dispose of the same for the purposes of the sabhai:

The sabhai may hold property, movable and immovable.

Provided that every disposition of property shall have the consent of at least two-thirds of the members of the board of management present at a duly convened meeting and provided further that every such disposition affecting movable property of over the value of one thousand rupees or immovable property shall have in addition to the consent aforesaid of the board of management the consent of at least two-thirds of members present at a general meeting of the sabhai specially convened for the purpose.

10. All debts and liabilities of the Saiva Paripalana Sabhai existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted and all debts, subscriptions or contributions payable to the said Saiva Paripalana Sabhai shall be paid to the corporation hereby constituted for the purposes of this Ordinance.

Debts due to and payable by the sabhai

11. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of the president, or a vice-president, and the secretary 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.

12. 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.

* Schedules omitted.—Private enactment.

CHAPTER 416

SRI PUNNIYAWARDHANA SAMITHIYA OF MATALE

Act
No. 14 of 1955.

AN ACT TO INCORPORATE SRI PUNNIYAWARDHANA SAMITHIYA OF MATALE.

[12th April. 1955.]

Short title.

1. This Act may be cited as the Sri Punniyawardhana Samithiya of Matala Act.

the corporation elected to that committee in accordance with the rules in force for the time being of the corporation.

Incorporation of Sri Punniyawardhana Samithiya of Matala.

2. The members for the time being of the association known as Sri Punniyawardhana Samithiya of Matala shall be a body corporate (hereinafter referred to as the "corporation") with perpetual succession, a common seal, and the name " Sri Punniyawardhana Samithiya of Matala ". The corporation may sue and be sued in such name.

(2) The first committee of management shall consist of the following :—

(a) Office-bearers:—

(1) S. P. Wijayatilake, Esquire, President, (2) W. Giragama, Esquire, Vice-President, (3) K. A. Uparishamy, Esquire, Vice-President, (4) M. K. B. Attanayake, Esquire, Vice-President, (5) W. P. Wimala Waidiyadasa, Esquire, Honorary Secretary, (6) U. B. Dissanayake, Esquire, Honorary Assistant Secretary, (7) V. P. H. Appuhamy, Esquire, Honorary Treasurer, (8) M. O. Abeyssekera, Esquire, Manager of Sunday Schools.

General objects of the corporation.

3. The general objects of the corporation shall be—

(b) Ordinary members of the committee of management:—

- (a) to impart and promote the study of Buddhism,
- (b) to encourage the practical observance of the teachings of the Buddha, and thus enable the members of the corporation and through them as many others as it may be possible, to acquire merit,
- (c) to propagate the teachings of the Buddha, and
- (d) to advance the physical, intellectual and social welfare of the members of the corporation.

(1) J. E. Gunasena, Esquire, (2) K. A. Arnolis Appuhamy, Esquire, (3) H. M. Upasena, Esquire, (4) P. B. Udupihilla, Esquire, (5) Edwin Wijeratne, Esquire, (6) E. K. Karunaratne, Esquire, (7) A. Somapala, Esquire, (8) L. W. S. Peries, Esquire, (9) K. A. Somapala, Esquire, (10) Victor Ekanayake, Esquire, (11) M. A. Simon Silva, Esquire, (12) H. S. Wickremasinghe, Esquire, (13) K. D. Alwis, Esquire, (14) K. M. Tikiri Banda, Esquire, (15) D. Punchi Banda, Esquire, (16) R. Karunadasa, Esquire, (17) R. M. T. Banda, Esquire, (18) D. M. Abaranhamy, Esquire, (19) K. H. A. Jayaweera, Esquire, (20) W. H. Soysa, Esquire, (21) S. W. William, Esquire, (22) C. B. Ellepola, Esquire.

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, three vice-presidents, the honorary secretary, the honorary assistant secretary, and the honorary treasurer of the corporation, the manager of the Sunday schools conducted by the corporation, and not less than twenty-two other members of

Rules.

5. (1) The corporation, with the approval of the committee of management and of two-thirds of the members of the corporation present at a general meeting of the corporation, may—

(a) make rules for the admission or expulsion of members of the corporation, for the performance of the duties of the committee of management and of the officers, servants and agents of the corporation, for the procedure in the transaction of business, and generally for the management of the affairs of the corporation and the accomplishment of its objects, and

(b) amend or rescind any of the rules of the corporation.

(2) Subject to the provisions of subsection (1) of this section, the rules set out in the Schedule* to this Act shall be the rules of the corporation.

(3) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

Debts due from and payable to the Samithiya.

6. All debts and liabilities of the said Sri Punniyawardhana Samithiya of Matale, existing at the time of the coming into operation of this Act, shall be paid or discharged by the corporation, and all debts due, and subscriptions and contributions payable, to the said Sri Punniyawardhana Samithiya of Matale shall be paid to the corporation.

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 three of the

members of the committee of management of whom two shall be the president or vice-president and the honorary secretary and 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.

8. The corporation may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition, or otherwise and, subject to the rules in force for the time being of the corporation, may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the corporation :

The corporation may hold property, movable or immovable.

Provided, however, that the corporation shall not sell, mortgage, or otherwise alienate (save and except by way of such lease for not more than one year at one time as is to the advantage and benefit, and in pursuance of the objects, of the corporation) the premises of the said Sri Punniyawardhana Samithiya of Matale, now bearing assessment No. 24, Gongawala Road, and situated in the town of Matale, for any reason or purpose whatsoever;

Provided further that, if that corporation acquires and obtains possession of other premises which meet the requirements of the corporation better than the said premises No. 24, Gongawala Road, the corporation may sell, mortgage, or otherwise alienate the said premises No. 24, Gongawala Road.

9. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or 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.

* Schedule omitted.—Private enactment.

CHAPTER 14

STATUTORY REPRINTS

Ordinance AN ORDINANCE TO MAKE PROVISION FOR THE PUBLICATION AND AUTHENTICATION OF REVISED REPRINTS OF WRITTEN LAWS.

[15th December, 1936.]

Short title.

1. This Ordinance may be cited as the Statutory Reprints Ordinance.

Minister in charge of the subject of justice may authorize revised reprints of written law.

2. Whenever it is necessary to publish any reprint of any written law, the Minister in charge of the subject of Justice may authorize-

- (a) the inclusion or incorporation in that reprint of any addition made to that written law or of any alteration, amendment or modification made in that written law by any other written law enacted, promulgated or otherwise brought into operation or declared to be in force prior to the date of reprinting ;
- (b) the omission from that reprint of any provision of that written law which has been repealed, rescinded, revoked, deleted or ordered to be omitted by any other written law enacted, promulgated or otherwise brought into operation or declared to be in force prior to the date of reprinting.

3. Every copy of any published reprint of any written law which has been revised for reprinting by authority of an Order of the Minister in charge of the subject of Justice under section 2 shall for all purposes be deemed to be authentic and a correct copy of written law in force in Sri Lanka on the date of such reprinting provided that such date is printed on each such copy and provided further that each such copy purports to be printed by the Government Printer by authority of an Order of the Minister in charge of the subject of Justice made under this Ordinance.

Authentication of revised reprints.

4. Nothing in this Ordinance shall be deemed to authorize the publication of a revised edition of the Legislative Enactments or to require an Order of the Minister in charge of the subject of Justice to Enactment the publication by the Government Printer of a reprint of any written law in the form in which that written law was enacted, promulgated or otherwise brought into operation or declared to be in force.

Savings.

CHAPTER 192

SILKWORM SEED*

Law A LAW TO PROVIDE FOR THE REGULATION OF THE PRODUCTION, SUPPLY AND
 No. 36 of 1974. DISTRIBUTION OF SILKWORM SEED AND THE CONTROL OF SILKWORM DISEASES
 AND TO MAKE PROVISION FOR ALL MATTERS CONNECTED THEREWITH OR
 INCIDENTAL THERETO.

[Not in operation on 31st December, 1980.]

Short title and date of operation. 1. This Law may be cited as the Silkworm Seed Law, and shall come into operation on such date as may be appointed by the Minister by Order published in the Gazette*.

Licensing authority. 2. The Minister may, from time to time, by order published in the Gazette, designate any person by name or by office to be the Licensing Authority for the purposes of this Law.

Prohibition on production, storage, transport, distribution and sale of silkworm seed. 3. No person shall produce, store, transport, sell or otherwise distribute or dispose of silkworm seed except under the authority or otherwise than in accordance with the terms or conditions of a licence issued in that behalf by the Licensing Authority under this Law.

Prohibition of rearing of silkworm. 4. No person shall rear silkworm from silkworm seed other than from silkworm seed obtained from a person holding a valid licence issued by the Licensing Authority.

Application for licence. 5. Every person desiring to produce, store, transport, sell or otherwise distribute or dispose of silkworm seed shall make an application for a licence in the prescribed form to the Licensing Authority.

Licences not transferable. 6. (1) No licence issued under this Law to any person shall be transferable to any other person, and accordingly any such transfer made in contravention of the preceding provision of this subsection shall be null and void.

(2) No licence issued under this Law to any person shall be used for the benefit of any other person.

7. (1) Where any person contravenes any provision of this Law or any regulation made thereunder, the Licensing Authority may by order suspend for any period specified in such order, or cancel such licence.

Power to suspend or cancel licences.

(2) No order under subsection (1) shall be made against the licensee except after notice to him to show cause within such period as may be specified in the notice, why such order should not be made, and except on his failing to show cause within such period, or on his not showing sufficient cause.

8. (1) The Licensing Authority or any person authorized in writing by such Licensing Authority may—

Power of entry and inspection.

(a) for the purpose of ascertaining whether the provisions of this Law or any regulation made thereunder are complied with, by order in writing require any rearer or licensee to furnish such information as may be called for;

(b) inspect or cause to be inspected any documents or records maintained by such rearer or licensee;

(c) enter and inspect at any time between sunrise and sunset any land, place or premises where rearing is done with a view to detecting the presence or otherwise of any silkworm diseases;

* Not in operation on 31st December, 1980.

(d) require such rearer or licensee to take such steps as may be considered by him expedient or necessary to prevent the spread of silkworm diseases including disinfection of any place or destruction of any silkworm seed or silkworm and such other action as may be prescribed.

(2) Every owner, occupier, rearer or licensee or any person in charge of any land, place or premises referred to in paragraphs (c) and (d) of the preceding subsection, shall give admittance to the Licensing Authority or such authorized officer and permit him to carry out his functions under the provisions of subsection (1).

Regulations.

9. (1) The Minister may from time to time 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) the importation or the prohibition of the import of silkworm seed,
- (b) the inspection of silkworm seed at any stage of its entry into the island;
- (c) cleansing or disinfection at the expense of the consignee of silkworm seed which are found or suspected to be infected with any disease;
- (d) for placing in quarantine the imported silkworm seed;
- (e) the declaration of any area in the island to be an infected area and for taking such steps as may be necessary for the proper quarantine of such area;
- (f) for the destruction of or proper disposal of silkworm, silkworm eggs, cocoons, moths and any equipment which may be affected or contaminated with disease,

(g) the appointment of authorized officers to carry out the provisions of this Law or any regulation made thereunder;

(h) subject to the provisions of this Law, the circumstances in which licences may be granted or refused;

(i) the category of persons to whom, the period for which and the terms and conditions subject to which a licence may be granted;

(j) the mode and manner in which applications for licences may be made or disposed of;

(k) the furnishing of all such statements, declarations relating to the business carried on by a licensee as may be necessary for ensuring that the provisions of this Law or any regulations made thereunder are complied with; and

(l) the standards to be observed by a licensee and the prohibition of acts or omissions in contravention of such standards.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of 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. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

10. (1) Any person aggrieved by the decision of the Licensing Authority relating to the refusal, cancellation or suspension of a licence, may, within fourteen days after the communication of such decision to such person, appeal in writing from such decision to the Minister.

Appeals.

(2) The Minister may, in dealing with any appeal preferred to him under subsection (1), affirm, vary or annul the order against which the appeal has been preferred.

(3) The decision of the Minister on any appeal preferred to him under the preceding provisions of this section shall be final and conclusive and shall not be called in question in any court.

Offences and penalties.

11. Any person who—

- (a) acts in contravention of or fails to comply with any provision of this Law or -any regulation made thereunder,
- (b) acts in contravention of or fails to comply with any condition of a licence,
- (c) fails to comply with any direction given by any authorized officer in the exercise of his powers under this Law, or
- (d) resists or obstructs any authorized officer in the exercise of his powers or the performance of his duties under this Law,

shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to rigorous imprisonment for a term of not less than one month and not exceeding one year or to a fine of not less than one hundred rupees and not exceeding one thousand rupees, or to both such fine and imprisonment.

Liability of certain persons in respect of offences committed by bodies corporate or incorporate.

12. Where an offence under this Law is committed by a body of persons, then—

- (a) if that body of persons is 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 corporate; or
- (b) if that body of persons is a firm, every person who at the time of the commission of the offence was a partner of that firm,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge 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 and in all the circumstances.

13. For the purpose of this Law—

Interpretation.

"authorized officer" means any person authorized in writing by the Licensing Authority for the purpose of this Law;

"cocoon" means cocoon produced by silkworm;

"diseases" shall include all diseases caused by fungal, bacterial, viral, protozoan and other organism which may injure or be parasitic upon any silkworm;

"licence " means a licence to carry on the business of producing, storing, transport, selling, distributing or disposing of silkworm seed ;

" Licensing Authority " means a person authorized by the Minister in the prescribed manner;

" prescribed " means prescribed under this Law or by regulations made thereunder;

" rearer" means a person engaged in rearing silkworm for the production of cocoons;

" silkworm " includes Mulberry silkworm, Tussor silkworm, Eri silkworm and Muga silkworm; and

" silkworm seed" means and includes cocoon used for preparing silkworm eggs, moths, eggs and any larval instar of silkworm of whatever description to be used for the purpose of reproduction.

CHAPTER 359

SPECIAL STAMPS

Act
No. 5 of 1956.

AN ACT TO PROVIDE FOR THE ISSUE OF SPECIAL STAMPS WITH A SURCHARGE THEREON FOR COLLECTING FUNDS BY MEANS OF SUCH SURCHARGE FOR ANY APPROVED PURPOSE.

[3rd February. 1956.]

Short title.

1. This Act may be cited as the Special Stamps Act.

3. The Minister may make rules in Rules. respect of the custody, supply and sale of special stamps.

Issue of special stamps.

2. (1) Where the Government decides that special stamps shall be issued for collecting funds for any approved purpose, the Minister shall cause such stamps to be issued. The issue of such stamps shall be additional to the ordinary issue of stamps.

4. Such part of any sum realized by the sale of special stamps as represents the amount of the surcharge expressed on such stamps is hereby allocated to the approved purpose in connexion with which such stamps are issued.

The surcharge to be allocated to the approved purpose.

(2) The kind of special stamps to be issued, and the postage and revenue value, and the amount of the surcharge, to be expressed on such stamps shall be determined by the Minister.

5. Special stamps shall, for the purposes of the Penal Code, be deemed to be stamps issued by the Government for the purpose of revenue.

Special stamps deemed to be revenue stamps for purposes of Penal Code.

(3) The postage and revenue value expressed on a special stamp shall represent—

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

(a) the denomination of such stamp, and

"approved purpose" means a purpose determined by Parliament by resolution passed by Parliament; and

(b) the value which may be used for paying any postage or such other duty, fee or charge as may be authorized by any written law to be paid by means of stamps issued by the Government.

"special stamp" means a stamp—

(a) which has expressed thereon—

(i) a postage and revenue value, and

(ii) the amount of a surcharge; and

(4) The surcharge expressed on a special stamp shall be the value which may be used for making a voluntary monetary contribution to the approved purpose in connexion with which such stamp is issued.

(b) which is sold at a price equal to the aggregate of the aforesaid value and surcharge.

CHAPTER 495

SERENDIB SUFI STUDY CIRCLE

Law No. 41 of 1974. A LAW TO INCORPORATE THE SERENDIB SUFI STUDY CIRCLE.

[27th November, 1974.]

Short title. 1. This Law may be cited as the Serendib Sufi Study Circle Law.

forthcoming from the scholarship of any member for the public good ;

Incorporation of the Serendib Sufi Study Circle. 2. From and after the date of commencement of this Law, such and so many persons as now are members of the Serendib Sufi Study Circle (hereinafter referred to as " The Circle "), 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 Serendib Sufi Study Circle ", and in the case of institution of actions in any court of law, the Corporation shall sue and be sued in such name, with full power and authority to have and use a common seal and alter the same at their pleasure.

(c) the establishment and maintenance of voluntary charitable organizations for any one or more of the following purposes:—

(i) the relief of poverty,

(ii) the care of widows and orphans, the aged and the destitute, by establishment of homes, orphanages, dispensaries, medical care, and

(iii) the relief of hunger, disease and sickness by the provision of sustenance and nourishment and medical care to the needy, the orphans, the indigent and the sick;

General objects of the Corporation. 3. The general objects for which the Corporation is constituted are hereby declared to be—

(a) the promotion and the study and understanding of Sufism (mysticism) among all persons seeking knowledge of Sufism (mysticism), including the teaching of the principles and practices of Sufism (mysticism) as expounded by His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa during his lifetime;

(b) the compilation, translation, publication and dissemination of the principles and practices of Sufism (mysticism) as are or may be expounded by His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa and the research works, reports and material pertaining to Sufism (mysticism) as are or may be

(d) the establishment of a scholarship fund for the provision of financial aid to any person irrespective of caste, creed or race for higher studies and research on Sufism (mysticism) at any place of learning in Sri Lanka or abroad ;

(e) the establishment of a centre for the study and research into aspects of Sufism (mysticism) including the teachings of His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa and all matters connected therewith in Sri Lanka; and

(f) generally the carrying on of all such work as may be necessary to attain the aforesaid objects.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the Management.

time being of the Corporation, be administered—

- (a) during the lifetime of His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa, by a Committee of Management nominated by him and elected by the members ; and
- (b) after the lifetime of His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa, by a Committee of Management to be elected by the members,

in accordance with the rules for the time being of the Corporation.

(2) The Patron, His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa, shall have the right during his lifetime to remove from office, on the recommendation of the Committee of Management, any member of the Committee of Management and nominate any other person to fill the vacant post.

(3) The first Committee of Management of the Corporation shall be the Patron and the other members of the Committee of Management of the Circle holding office on the date of commencement of this Law.

Board of Trustees.

5. (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 Board of Trustees, who shall—

- (a) during the lifetime of His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa, be nominated by him; and
- (b) after the lifetime of His Holiness Muhammed Muhiyadeen Guru Bawa, be elected by the Committee of Management,

in accordance with the rules in force for the time being of the Corporation, and continue as such Trustees until they resign or die, or until they are removed from office by His Holiness Sheikh Muhammed Muhiyadeen Guru Bawa on the recommendation of the Committee of Management, as the case may be.

(2) The first Board of Trustees of the Corporation shall be the Board of Trustees holding office on the date of commencement of this Law.

6. (1) It shall be lawful for the Corporation, from time to time, at any annual or special general meeting of the members and by the votes of at least two-thirds of the members present and voting at such meeting to make such rules as are not inconsistent with the principles and provisions of this Law, as it may deem expedient for all or any of the following purposes:—

- (a) the admission, withdrawal or expulsion of members;
- (b) the powers, conduct, and duties of the Committee of Management, the Board of Trustees, the various officers, agents and servants of the Corporation;
- (c) the procedure to be observed at meetings and in convening meetings and in the transaction of the business of the Corporation;
- (d) the administration and management of the property of the Corporation;
- (e) the determination of the subscription payable by the members and the collection of such subscriptions; and
- (f) generally the management of the affairs 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).

(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 special or any general meeting of

the Corporation and unless at least fifteen days. prior notice of such alteration, addition, amendment or cancellation shall have been given to the members by circular or notice in the Press.

Chairman, any three members of the Board of Trustees, 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) The rules of the Circle in force on the date of commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

9. 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 Law and subject to the rules for the time being of the said Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

Debts due by and payable to the Corporation.

7. All debts and liabilities of the Circle 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 Circle, shall be paid to the Corporation for the purposes of this Law.

Procedure for affixing the seal of the Corporation.

8. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the Chairman and any two of the members of the Board of Trustees, or, in the absence of the

10. 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.

Saving of the rights of the Republic and others.

CHAPTER 13

SHORT TITLES (NUMERATION)

Ordinance AN ORDINANCE RELATING TO THE SHORT TITLES OF ENACTMENTS.
No.48 of 1953.

[2nd December, 1935.]

short title. **1.** This Ordinance may be cited as the Short Titles (Numeration) Ordinance.

Serail numbering of Acts of Parliament. **2.** The Acts of Parliament of each year shall be distinguished by serial numbers commencing with number one of that year for the Act which first receives in that year, the certificate of the President or the Speaker, as the case may be, under the provisions of the Constitution, and so in succession in the order in which they receive such certificate; and it shall be the duty of the Secretary-General of Parliament, forthwith after each Act receives such certificate to insert in the short title of that Act its appropriate serial number, and where necessary, to insert or substitute a reference to the year in which the Act receives such certificate.

CHAPTER 351

SALES TAX

Acts
Nos, 65 of 1961
(Part IV),
9 of 1962,
3 of 1963.

AN ACT TO PROVIDE FOR THE IMPOSITION OF A SALES TAX FOR ANY YEAR OF ASSESSMENT COMMENCING ON OR AFTER OCTOBER 1, 1961 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[12th October, 1961.]

Short title. **1.** This Act may be cited as the Sales Tax Act*.

Imposition of Sales tax. **2.** (1) Subject to such exemptions as may be prescribed, there shall be imposed and levied a tax (in this Act referred to as " Sales tax ") at such rate as the Minister may fix by Order published in the Gazette on the value of every article (not being an article set out in the Schedule to this Act) which is sold by any person who is required by any regulation to be registered for the purposes of this Act to any other person who is not so required to be registered or which is imported into Sri Lanka by any person who is not so required to be registered. Different rates may be fixed by the Minister in respect of different articles.

(2) The rate of the Sales tax on any article subject to Sales tax may, from time to time, be varied by the Minister by Order published in the Gazette.

(3) Every Order under subsection (1) or subsection (2) or subsection (5) shall come into force on the date of its publication in the Gazette or on such later date as may be specified in the Order, and shall be brought before Parliament within a period of one month from the date of the publication of such Order in the Gazette, or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such Order shall be approved. There shall be set out in a schedule to every such motion the text of the Order to which the motion refers.

(4) Any Order under subsections (1), (2) or (5) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the Gazette.

(5) The Minister may by Order published in the Gazette amend the Schedule to this Act by the addition thereto of any article other than those enumerated therein, or by the omission of any article enumerated therein or otherwise.

3. For the purposes of this Act, any presumptions. article—

(a) which is imported into Sri Lanka by any person who is registered under this Act in respect of any business ; or

(b) which is manufactured or produced or stored in Sri Lanka by such person,

shall be deemed until the contrary is proved to have been so imported, or so manufactured or produced or stored, as the case may be, for the purpose of sale.

4. Subject to such exceptions as may be prescribed, the Sales tax chargeable in respect of any article shall become due, as the case may be, on the delivery of the article under a sale by a person who is required by any regulation to be registered

Responsibility of registrant to pay Sales tax.

* Sections 24 to 28 in Part IV of the Finance Act, No. 65 of 1961, have been renumbered and reproduced as sections 2 to 6 of this Act, and sections 29, 57, 58, 61, 61A, 62 and 63 of the Finance Act, No. 65 of 1961, with modifications have been incorporated in this Act as sections 7 to 12.

for the purposes of this Act to any other person who is not required to be so registered or on the importation of the article by any person who is not required by any regulation to be registered for the purposes of this Act.

Regulations.

5. Regulations may be made in respect of all or any of the following matters:—

- (a) all matters stated or required under this Act to be prescribed ;
- (b) the registration of persons who sell articles imported into, or produced or manufactured in, Sri Lanka or who import articles into Sri Lanka;
- (c) the collection of information necessary for the purposes of this Act;
- (d) the returns to be made, and the books, registers and other records to be maintained by persons registered for the purposes of this Act, and the forms of such returns, books, registers and other records;
- (e) the inspection of books, registers and records maintained for the purposes of this Act, and of any other document relating to sales of articles;
- (f) the production of, and the taking of copies of, registers and records maintained for the purposes of this Act and of other documents relating to sales of articles;
- (g) the powers of each competent authority administering the provisions of this Act and of the subordinate officers of each such authority;
- (h) the levy and payment of Sales tax, the imposition of penalties on defaulters, and the recovery of Sales tax and penalties from defaulters in a summary manner;
- (i) the right of appeal to the competent authority from any decision made

by a subordinate officer of that authority;

- (j) the service of notices for the purposes of this Act;
- (k) the refund of excess Sales tax paid by any person under this Act.

6. The value of any article for the purposes of computing the Sales tax thereon shall—

Determination of value of any article subject to the Sales tax.

- (a) in the case of an article imported by any person for his own use, be the price that article would fetch on a sale in the open market in Sri Lanka if no Sales tax were chargeable in respect of the sale; and
- (b) in the case of any other article subject to Sales tax, be the price which such article would fetch on a sale made at the time when the tax in respect of such article becomes due, by a person selling in the open market in Sri Lanka to a retail dealer carrying on business in Sri Lanka, if no Sales tax were chargeable in respect of the sale.

7. 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.

8. Any competent authority or any person authorized in that behalf by such authority may direct any applicant for registration under this Act to furnish to him such information as may be required for the purposes of such registration; and that applicant shall comply with that direction.

Power to require information.

9. (1) Any person who—

- (a) contravenes or fails to comply with any provision of this Act or any regulations made thereunder; or

Offences, [§ 30, 9 of 1962.]

SALES TAX

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(b) makes any incorrect declaration otherwise than by error or oversight,

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.

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.

11. 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.

[§ 21, 3 of 1963.]

(2) On the conviction of any person for failure to have his business registered and to have himself registered as the proprietor thereof in the register of businesses, such person shall be liable to pay, in addition to any punishment that may be imposed on him under subsection (1), a fine of rupees fifty for each day on which the failure is continued after conviction thereof.

12. In this Act, unless the context otherwise requires—

"business" includes a trade, but does not include a profession or any agricultural undertaking and the manufacture of any articles, goods or material from the produce of that agricultural undertaking;

Offences by body of persons. [§31, 9 of 1962.]

10. Where an offence under this Act is committed by a body of persons, then—

"profession" includes any vocation carried on by a person ; [§ 32, 9 of 1962.]

(a) if that body is a body corporate, every director and officer of that body corporate; and

"retail dealer" means any person who carries on the business of selling articles by retail;

(b) if that body of persons is a firm, every partner of that firm,

"sale" means any transfer of title in any article for cash or deferred payment or other valuable consideration and includes the transfer of any article on hire-purchase or other instalment system but does not include the mortgage, hypothecation or pledge of any article.

shall be deemed to be guilty of that offence :

Provided that a director or an officer or such body corporate or a partner of such firm shall not be deemed to be guilty of that

SCHEDULE

[Section 2(1).]

Agricultural produce including agricultural produce purchased for export.

Arecanuls.

Arrack.

Betel.

Cereals, namely— amu, barley, gingelly, kurakkan, maize, meneri, millet, paddy, rice, sorghum, thana, ulundu.

Coconuts.

Coconut Oil.

Condiments, namely—cardamom, chillies, cinnamon, coriander, cummin seed, fennel seed, garlic, ginger, maldive fish, mathe seed, mustard, nutmeg, pepper, salt, tamarind, turmeric, vinegar.

Cooked food.

Crabs.

Dried fish.

Eggs.

Fertilizers.

Fish excluding imported tinned fish and live fish.

Firewood.

Flour.

Fruits which are the produce of Sri Lanka.

Gas oil, diesci oil, furnace oil and other fuel oils.

Gingcilly oil.

Jaggery.

Kerosene oil.

Lubricating oils and greases.

Meat excluding imported meat.

Milk excluding condensed milk, dried milk powder.

Onions.

Pappadam.

Petrol including aviation spirit.

Potatoes.

Pulses, namely,—dhal, gram, ground-nuts, kollu, peas.

Sailed fish.

Sugar candy.

Sugar.

Toddy.

Vegetables which are the produce of Sri Lanka.

Yams.

CHAPTER 489

ST. THOMAS' COLLEGE

Ordinance
No. 7 of 1930.

AN ORDINANCE TO INCORPORATE THE ST THOMAS* COLLEGE BOARD OF GOVERNORS
AND TO AMEND THE LAW RELATING TO ST. THOMAS' COLLEGE.

[1st April, 1930.]

Preamble.

Whereas by a grant No. 2103 dated the 2nd day of September, 1854, and attested by Frederick John de Saram of Colombo in the Island of Ceylon Notary Public, James Chapman then Lord Bishop of Colombo being seized and possessed of certain land and premises forming the College of Saint Thomas the Apostle fully described in the aforesaid grant transferred, assigned and set over unto the Incorporated Society for the Propagation of the Gospel in Foreign Parts (hereinafter called "the society") and the Bishop of Colombo and his successors for the time being the said land and premises, to hold the same for ever in trust nevertheless for the following purposes :— First, for the maintenance of the College of Saint Thomas the Apostle for the education of youth; Second, for the training and theological instruction of students as candidates for Holy Orders and for their instruction in medical and surgical knowledge; Third, for the continuance of the Native Orphan Asylum; Fourth, for the residence of the Bishop of Colombo; and Fifth, for the holding of the services of the Church, and the due observance of its seasons and festivals:

And whereas by the Saint Thomas' College Ordinance, No. 13 of 1913, the society and Ernest Arthur Copleston then Lord Bishop of Colombo as such trustees as aforesaid were empowered to sell the land and buildings forming the said college and to purchase other land and erect buildings and to hold the same in trust for the purposes and objects and subject to the terms and conditions in the said grant contained:

And whereas in the exercise of the said powers the said trustees have sold the said land and buildings:

And whereas by the Saint Thomas* College (Amendment) Ordinance, No. 2 of 1915, the said trustees were empowered to retain in their hands out of the proceeds of the sale of the land comprised in the said grant such sum as they might deem requisite for the erection of the buildings necessary for the purpose of the said trust and for the purpose of meeting any deficiency thereby or otherwise occasioned in the funds in their hands available for the completion of the purchase of the land authorized to be purchased under the said Ordinance No. 13 of 1913, to mortgage and hypothecate the said land or any part thereof:

And whereas by deed No. 1882 dated the 25th day of April, 1919, attested by Leslie William Frederick de Saram of Colombo aforesaid Notary Public, the said trustees with the leave of court duly obtained in special proceedings No. 826 of the District Court of Colombo purchased from the said Ernest Arthur Copleston then Lord Bishop of Colombo as trustee of the Holy Emmanuel Church Moratuwa certain land and buildings situate at Mount Lavinia in the District of Colombo upon the trusts and for the uses, ends and purposes in the said grant dated the 2nd day of September, 1854, contained and have erected on the said land certain buildings and contemplate erecting other buildings:

And whereas under the powers contained in the said Ordinance No. 2 of 1915, the society and Mark Rudolph Carpenter-Gamier then Lord Bishop of Colombo on the 7th day of December, 1928, mortgaged and hypothecated the said land and buildings situated at Mount Lavinia aforesaid to the Incorporated Trustees of the Church of England in Ceylon to secure the repayment to the said incorporated trustees of the sum of 45,000 rupees advanced by them:

And whereas the Lord Bishop of Colombo and the treasurer in Ceylon of the society and the warden of the said college have hitherto transacted all the affairs of the said college with the help of certain trustees:

And whereas the purposes and objects of the said college would be more effectually prosecuted and attained by the constitution and incorporation of a board of governors empowered to hold, control, manage and deal with all the property belonging to the said college and transact all the affairs of the said college:

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

1. This Ordinance may be cited as the Saint Thomas' College Board of Governors Ordinance.

Incorporation.

2. (1) There shall be established a board (hereinafter referred to as "the board"), the members of which for the time being shall be, and are hereby constituted a body politic and corporate, with the name of "The Saint Thomas' College Board of Governors".

(2) The board shall in the said name and for the purposes herein mentioned have perpetual succession, and shall and may by the said name sue and be sued, plead and be impleaded, answer and be answered, in all courts, and shall and may have and use a common seal with power to break, alter and renew the same at its discretion.

Constitution of the board,

3. (1) The board shall consist of the following members :—

(a) Ex officio members :—

The Lord Bishop of Colombo, or in his absence, his commissary;

The representative in Sri Lanka of the society.

(b) Such other persons as may be elected, nominated or co-opted in accordance with the rules in the Schedule* :

* Schedule omitted.—Private enactment.

Provided that at least eighty *per centum* of the members of the board shall be members of the Church of England in Ceylon, or of a Church in communion with that Church.

(2) Notwithstanding anything in subsection (!) contained, the first members of the board shall be the following persons and two other persons to be co-opted by them after the commencement of this Ordinance, both of whom shall be members of the Church of England in Ceylon, and one of whom shall be a member of the St. Thomas' College Old Boys' Association :—

(a) Ex officio members:—

The Right Reverend Mark Rudolph Carpenter-Gamier, Lord Bishop of Colombo, or in his absence, his commissary;

R. Jewell-Thomas, Esq., Representative in Ceylon of the society.

(b) Other members :—

The Honourable D. S. Senanayake; C. E. A. Dias, Esq.; The Reverend Dr. G. B. Ekanayake, D.D.;

H. H. Bartholomeusz, Esq.; The Reverend W. A. Stone; Dr. Gerald H. de Saram; The Honourable T. L. Villiers; Sir Stewart Schneider;

and such persons together with two other persons to be co-opted by them shall be deemed to have been duly constituted as the board in accordance with the provisions of this Ordinance and the rules made thereunder.

4. The board shall at all times hereafter be able and capable in law to acquire either by purchase, exchange, gift, devise or bequest or in any other manner, and to hold and enjoy in perpetuity or for any lesser term, subject to any express trust or otherwise for the benefit of the said college or orphanage, any property movable or immovable of any nature or kind whatsoever and to invest the funds vested in

Capacity to hold property, &c

the board in securities of the Government of Sri Lanka or upon any mortgage of movable or immovable property in Sri Lanka and also in the purchase or acquisition of such lands, buildings, goods, chattels and things as may in its opinion be proper or necessary for the purposes of the said college or orphanage.

Vesting of property.

5. (a) The land and buildings purchased as aforesaid on the 25th day of April, 1919, and all other land, buildings and premises now vested in the society and the Lord Bishop of Colombo or held in trust for the purposes and objects and subject to the terms and conditions in the said grant dated the 2nd day of September, 1854, contained shall from the commencement of this Ordinance be vested in the board for the purposes and objects and subject to the terms and conditions contained in the said grant and the said Ordinances No. 13 of 1913 and No. 2 of 1915, but subject nevertheless to the mortgage dated the 7th day of December, 1928, mentioned in the preamble to this Ordinance so far as the same shall be affected thereby.

(b) All other property movable or immovable of any nature or kind whatsoever and all moneys, goods, chattels and effects whatsoever and all securities for money or obligatory instruments and evidence or muniments of title and all other effects and all rights and claims held by any person or persons as trustee or trustees for the benefit of the said college or orphanage at the date of the commencement of this Ordinance shall be vested in the board to all intents and purposes as if the same had been assigned and transferred to the board by the trustee or trustees in whose name the same are now held and upon the trusts and subject to the terms and conditions applicable thereto.

Release of trustees of grant of 2nd September, 1854.

6. The society and the Lord Bishop of Colombo shall from the commencement of this Ordinance be absolutely released and discharged from all claims, demands, actions and proceedings in respect of the trust estate and premises now or at any time held in trust for the purposes and objects or subject to the terms and conditions in the said grant dated the 2nd day of September, 1854, and the said Ordinances No. 13 of

1913 and No. 2 of 1915 contained, or in respect of any sale, mortgage, hypothecation, investment or transposition of investment, payment or other dealing or anything done or omitted by the society and the said Lord Bishop or his predecessors in office in respect thereof or otherwise howsoever in relation thereto and also from all liability for the payment of the principal sum and interest at any time secured by the mortgage dated the 7th day of December, 1928, mentioned in the preamble to this Ordinance.

7. (1) The board may erect or cause to be erected any buildings on any land vested in the board by virtue of this Ordinance or acquired or held by it, and may also from time to time sell, grant, convey, demise, assign, exchange and dispose of or mortgage any property for the time being vested in the board. Nothing in section 4 of the Saint Thomas' College Ordinance, No. 13 of 1913, as amended by Ordinance No. 2 of 1915, shall be deemed to limit or control the rights hereby created and granted.

Power to deal with property, and change site of college.

(2) The board may from time to time remove the said college or any part thereof to any other site.

8. All debts and liabilities of the said college existing at the time of the commencement of this Ordinance, including the said mortgage dated the 7th day of December, 1928, shall be payable by the board and all debts due to and moneys payable to the said college shall be payable to the board for the purposes of this Ordinance.

Debts.

9. It shall be obligatory on the board to observe and carry out the trusts connected with moneys which are vested in the board by virtue of this Ordinance or otherwise. The board shall administer the trusts connected with the following:—

Scholarships, exhibitions, and prizes.

- (a) General Endowment Fund;
- (b) Divinity Students' Fund;
- (c) Poor Scholars* Endowment Fund;
- (d) Native Orphanage Fund ;
- (e) Duke of Edinburgh Scholarship Fund,

- (f) The Gregory Scholarship Fund ;
- (g) The Prince of Wales's Exhibitioners' Fund;
- (h) The Herbert Acland Scholarship ;
- (i) The Victoria Gold Medal Fund.

Power to make rules.

10. (1) It shall be lawful for the board from time to time at any meeting specially called for that purpose and by a majority of the members present and voting to make such rules not inconsistent with this Ordinance as it may deem expedient for any or all of the following purposes :—

- (a) for the constitution of the board and the term of office of its members and the custody of the seal;
- (b) for regulating the time and place of its own meetings and the order to be observed thereat;
- (c) for the conduct of the duties of the board;
- (d) for the employment, appointment and dismissal of the warden, the sub-warden and other members of the staff of the college and orphanage ;
- (e) for the management, organization and curriculum of the college and orphanage;
- (f) for the conditions regarding the admission of students and orphans to the college and orphanage ;
- (g) for the charging and recovery of fees, and for the award of grants, scholarships, exhibitions and maintenance allowances;
- (h) for the keeping of accounts, the deposits of money, the custody of documents and the appointment of such clerks or other officers as may

be necessary for the performance of the work of the board ;

- (i) for the appointment of a secretary and treasurer;
- (j) for amending, adding to or cancelling the rules in the Schedule* ; and
- (k) for providing for every other matter not herein specifically provided for but necessary for the management of the property and the affairs of the college and orphanage and the discharge of the duties of the board.

(2) The rules in the Schedule* shall be deemed to be the rules of the board and to have been made by the board under this Ordinance, and shall remain in force until amended, added to or rescinded by rules made by the board under this section at a meeting called for that purpose.

(3) All rules made under this section shall be published in the Gazette.

11. The seal of the board shall no* be affixed to any instrument whatsoever except in the presence of two of the members of the board 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.

12. It shall be lawful for the board in all cases not provided for by this Ordinance, to act in such manner as shall appear to it best calculated to promote the welfare of the said college and orphanage.

13. 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 those claiming by, from, or under them.

•Schedule omitted.—Private enactment.

CHAPTER 620

SCHOOL TEACHERS PENSION

Acts AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE GRANT OF PENSIONS,
 Nos.44 of 1953, GRATUITIES OR OTHER ALLOWANCES TO TEACHERS AND TO THE WIVES AND
 23 of 1957, CHILDREN OF MALE TEACHERS, TO ENABLE THE AGE OF COMPULSORY
 38 of 1961, RETIREMENT OF TEACHERS WHO ARE NOT EMPLOYED IN GOVERNMENT SCHOOLS
 34 of 1964. TO BE PRESCRIBED BY REGULATION, AND TO PROVIDE FOR MATTERS CONNECTED
 THEREWITH OR INCIDENTAL THERETO.

[19th December, 1953.]

Short title. **1.** This Act may be cited as the School Teachers Pension Act.

Establishment of a pension scheme. **2.** (1) There shall be a pension scheme for the grant of pensions, gratuities or other allowances to teachers (hereinafter referred to as " the pension scheme ").

(2) The pension scheme, which has been established under the School Teachers Pension Ordinance, No. 6 of 1927,* and which is in existence on the day immediately preceding the date of the commencement of this Act, shall be the pension scheme established for the purposes of this Act.

Regulations for the pension scheme. **3.** (1) Regulations may be made under this Act providing for the regulation, administration and management of the pension scheme, the conditions and circumstances in which, and the restrictions subject to which, teachers will be eligible for the grant of pensions, gratuities or other allowances, fixing the contributions to be made thereto by teachers, and the payments to be made thereunder to teachers, authorizing the contributions of teachers to be deducted from their salaries, prescribing the procedure for making such deductions, authorizing the payment of such contributions into the Consolidated Fund, authorizing the deduction of moneys due from deceased teachers to the Government or to the Lady Lochore Loan Fund out of any sums which are payable to the nominees or legal representatives of such teachers as contributions made to the pension scheme,

or pension undrawn, by such teachers, and all matters incidental to or connected with such scheme for which no express provision is made in this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), regulations made under that subsection in respect of any matter may make provision similar to that made in respect of the same matter in the Minutes regulating the pensions or gratuities to be granted to public servants.

4. There may, in accordance with regulations made under this Act, be established and regulated a widows' and orphans' pension fund for the grant of pensions to the widows and children of male teachers (hereinafter referred to as " the pension fund ").

Establishment of widows' and orphans' pension fund.

5. (1) Regulations may be made under this Act providing for the establishment, regulation, administration and management of the pension fund, the conditions and circumstances in which, and the restrictions subject to which, the widows and children of male teachers will be eligible for the grant of pensions, fixing the contributions, if any, to be made thereto by the Government, fixing the contributions to be made thereto by male teachers, authorizing the contributions of male teachers to be deducted from their salaries, prescribing the procedure for making such deductions, authorizing the payment of all such

Regulations for the pension fund.

* Repealed by Act No. 44 of 1953.

[§ 2, 34 of 1964.]

contributions into the fund, authorizing the investment of moneys paid into the fund and all matters incidental to or connected with the fund for which no express provision is made in this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), regulations made under that subsection in respect of any matter may make provision similar to that made in respect of the same matter in the Widows' and Orphans' Pension Fund Ordinance.

(3) Regulations made under this Act in respect of the pension fund may be made applicable, either with or without modification, to persons and the widows and children of persons, who, having held posts as teachers and thereby contributed to the fund, have ceased to hold such posts whether by reason of retirement or otherwise, and the provisions of this Act relating to the fund shall be construed accordingly. Without prejudice to the generality of the preceding provisions of this subsection, regulations made for the purpose aforesaid may provide for the deduction of the contributions of such persons from the pensions, if any, received by them under the pension scheme or from the Government.

Cost of establishment, &c., to be a charge on the Consolidated Fund.

6. The cost of establishment and other expenses incidental to the management and administration of the pension scheme and pension fund, all contributions payable by the Government under this Act, and all pensions, gratuities or other allowances payable to teachers under this Act, shall be a charge on the Consolidated Fund.

Contributions, &c., not to be assigned or attached.

7. No contribution, pension, gratuity or other allowance payable under this Act 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.

No absolute right to pension,

8. (1) No person shall have any absolute right to the grant of any pension, gratuity or other allowance under this Act.

(2) Nothing in this Act or in any regulations made thereunder shall be

deemed or construed to limit any power or right to dismiss without compensation any person employed as a teacher.

(3) Nothing in this Act or in any regulations made thereunder shall entitle any person to receive in respect of the same period of service more than one pension out of the public funds of Sri Lanka.

8A. The age of compulsory retirement of teachers who are not employed in Government schools shall be prescribed by regulation made under this Act.

Age of compulsory retirement of teachers who are not employed in Government schools. [§ 3, 23 of 1957.]

In this section, " Government school " has the same meaning as in the Education Ordinance.

9. (1) The Minister may make regulations in respect of all matters for which regulations are authorized to be made under this Act.

Minister to make regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation from the date on which it is so published or from such other date as may be specified therein.

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

(4) 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.

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

Director-General of Education to decide certain questions and his decision to be subject to appeal to the Minister. [§ 4, 23 of 1957.]

9A. (1) Any question which arises as to the interpretation of any regulation made, or deemed to have been made, under this Act, or as to the application of any such regulation to any person or as to the amount of any pension, gratuity or other allowance, payable under any such regulation or as to the grant, refusal, suspension or cessation of any such pension, gratuity or allowance shall be decided by the Director-General of Education.

(2) Any person affected by a decision of the Director-General of Education under subsection (1) may make a written appeal from that decision to the Minister within one month after the date of the communication of that decision to him. Where such an appeal is made, the Minister may confirm the decision of the Director-General of Education or may annul such decision and decide the question to which the decision of the Director of Education relates. The decision of the Minister upon any such appeal shall be final and conclusive.

(3) Where a decision of the Director-General of Education under subsection (1) is in force, such Director-General may revoke or alter such decision if—

- (a) such decision is incorrect or has been made on insufficient information furnished to such Director-General, and
- (b) the revocation or alteration of such decision will be to the advantage of the teacher affected by such decision.

Provisions relating to teachers whose names have been or are inadvertently omitted from the Register of Pensionable Teachers. [§ 5, 23 of 1957.] [§ 2, 38 of 1961.]

9B. (1) Where the name of a teacher who has retired before the coming into operation of Act No. 23 of 1957 or retires thereafter is not in the Register of Pensionable Teachers, then, if prior to his retirement he was entitled to have his name entered in such register, his name may be entered in such register as from the date he was entitled to have his name so entered in such register, and accordingly a pension may be granted to him with effect from the date of his retirement and such

contributions as he would have been liable to make in respect of his pension if his name had been in such register shall be deducted from his pension in such manner as may be determined by the Director-General of Education and shall be paid to the Consolidated Fund.

(2) In subsection (1), " Register of Pensionable Teachers " means the Register of Pensionable Teachers maintained by the Director-General of Education under the regulations relating to the pensions of teachers and made or deemed to have been made under this Act. [§ 5, 23 of 1957.]

10. In this Act the expression " teachers " means teachers employed— Interpretation.

- (a) in any school maintained wholly or partly from the public funds of Sri Lanka; or
- (b) in any unaided school as defined in the Education Ordinance, and in relation to which the provisions of section 49 of that Ordinance have been complied with.

11. (1) Notwithstanding anything in Ordinance No. 6 of 1927,* any rule made under that Ordinance and in force on the day immediately preceding the date of the commencement of this Act, authorizing the levy of contributions from teachers to any pension scheme established under that Ordinance, shall be deemed to have been validly made and to have had the force of law. Savings.

(2) All rules made under Ordinance No. 6 of 1927* which are in force on the day immediately preceding the date of the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to be regulations made under this Act, and accordingly shall continue in force until they are amended or rescinded by regulations made thereunder. Any regulation amending or rescinding any such rule may be declared to be effective from any date specified therein. Such date may be a date prior or subsequent to the date of the commencement of this Act.

* Repealed by Act No. 44 of 1953.

Date from
which certain
provisions are
to have effect.

12. The provisions of sections 4 and 5, and the other provisions of this Act in their application in the case of the pension fund, shall have effect and be deemed to have had

effect from the 1st day of October, 1951, and accordingly regulations made under this Act in respect of such fund may be declared to be effective as from the said day.

CHAPTER 507

SINHALA WELEND A MANDALAYA

Ordinance AN ORDINANCE TO INCORPORATE THE SINHALA WELEND A MANDALAYA.
 No. 49 of 1947.

[2nd July, 1947.]

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| Short title. | <p>1. This Ordinance may be cited as the Sinhala Welenda Mandalaya Ordinance.</p> | <p>(c) the consideration of all questions connected with the trade, manufactures and industries of Sri Lanka,</p> |
| Incorporation of Sinhala Welenda Mandalaya. | <p>2. On and after the passing of this Ordinance the present president, vice-presidents and members of the committee of the said Sinhala Welenda Mandalaya, and such and so many persons as now are members of the said Sinhala Welenda Mandalaya or shall hereafter be admitted members of the corporation hereby constituted, whose names shall be inscribed in the register mentioned in section 5, shall be and become a corporation with liability limited in manner provided in section 13 with continuance for ever, under the name and style of "Sinhala Welenda Mandalaya", and by that name shall 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.</p> | <p>(d) to endeavour to promote or oppose legislative and other measures affecting such trade, manufactures and industries;</p> <p>(e) to collect and circulate statistics and other information relating to all trade, manufactures and industries ;</p> <p>(f) to form a board or commission of reconciliation and of arbitration to settle disputes between parties willing to abide by its decisions and to undertake the settlement of disputes and differences arising out of trade, commerce and industry;</p> |
| General objects. | <p>3. The general objects for which the corporation is constituted are hereby declared to be—</p> | <p>(g) to advise on matters of trade, commerce and industry and to communicate its views on such matters to public authorities, similar associations in other places, and individuals;</p> <p>(h) by recording its proceedings and decisions, to form a code of practice by which transactions of business may be simplified and facilitated;</p> <p>(i) to undertake and execute any trusts, and to undertake the obligations of trustees and to co-operate with executors and trustees in the financial administration of any estate or trust and to transact or carry on all kinds of business relating to trusts, (subject always to the provisions of any written law relating to trusts);</p> |
| | <p>(a) to promote, foster and protect the commerce of Sri Lanka in general and the commercial interests of the Sinhala Welenda Mandalaya in particular by obtaining by every means the redress of acknowledged grievances and the removal of undesirable restrictions;</p> <p>(b) to represent and express on commercial questions the opinions of the members of the Sinhala Welenda Mandalaya and to aid, assist and co-operate with others in such representations and expression;</p> | |

- (j) to establish and support provident funds for the benefit of the officers, employees and servants of the corporation;
- (k) to borrow or raise money for the purposes of the corporation and for that purpose or for securing money for the performance or discharge of any obligation or liability of the corporation or for any other purpose to create, execute, grant or issue any mortgages, bonds or obligations of the corporation and to pay off and reborrow the moneys secured thereby or any part or parts thereof;
- (l) to do all or any of the above things in any parts of the world, and either as principals, agents, trustees or otherwise, and by agents, trustees or otherwise, and either alone or in conjunction with others;
- (m) the encouraging and fostering of commercial, agricultural and industrial education, and the award of scholarships;
- (n) to encourage members to engage themselves in trade, industry and commerce in Sri Lanka or elsewhere;
- (o) to promote goodwill and co-operation among those engaged in trade, industry, commerce and agriculture;
- (p) the rendering of assistance to those members who may find themselves in business and financial difficulties;
- (q) to do all such other things as may be necessary, incidental or conducive to the interests or benefits of the members or to the attainment of the above objects or any of them or generally for the benefit, protection or advancement of the trade, commerce, manufactures and industries of Sri Lanka;
- (r) to enter into, sign and execute any contract, agreement or other documents for the purpose of nominating or appointing any person or persons whomsoever as representative or agent of the corporation or for the purpose of delegating any matter to any person or persons whomsoever or otherwise for all or any of the purposes aforesaid either in Sri Lanka or abroad;
- (s) to work for the removal of unfair competition in trade;
- (t) to purchase, take on lease or on rent, hire or otherwise acquire any estate, land, building and immovable or movable property in Sri Lanka or elsewhere and to manage, sell, let or sublet, lease or otherwise dispose of any such property or belonging of the Mandalaya, in Sri Lanka or elsewhere;
- (u) to establish and assist institutions for the training of salesmen;
- (v) to publish periodicals, magazines, journals or any other publication with a view to attaining the objects of the Mandalaya.

The objects specified in each paragraph of this section shall not be limited or restricted by reference to or inference from the terms of any other paragraph.

4. (1) The affairs of the corporation shall be administered, subject to the rules for the time being of the corporation as hereinafter provided, by an executive committee consisting of the president, not more than five vice-presidents, the treasurer, secretary and assistant secretary and not more than forty-one members of the corporation to be elected in accordance with the rules for the time being of the corporation. Such executive committee shall have power to delegate the administration of any portion or portions of the affairs of the corporation to one or more sectional trade committees or subcommittees.

(2) All members of the corporation shall be subject to this Ordinance and the rules for the time being of the corporation.

of the corporation's funds. Such rules may be altered, added to, amended or cancelled by a resolution passed by a majority of the executive committee or by a resolution passed at a general meeting of members.

Register of members.

5. (1) The executive 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 said association, and every person thereafter duly admitted a member of the corporation hereby constituted, shall have his name inscribed.

8. Subject to the provisions of this Ordinance, the rules set forth in Schedules A* and B* shall for all purposes be the rules of the corporation and shall come into operation after the first annual general meeting held after the passing of this Ordinance:

(2) The register shall contain the following particulars;—

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the said Schedules* or to be hereafter made by the corporation.

- (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.

9. No rule in the Schedules* nor any rule hereafter passed at a general meeting, and no decisions come to by the corporation in general meeting, shall be altered, added to, amended, or cancelled, except by a majority of the members present and voting at any subsequent general meeting.

Powers of the corporation.

6* The corporation shall have power from time to time, at any general meeting of the members, and by a majority of votes, to make rules and pass resolutions for the admission, withdrawal or expulsion of members, for the imposition of fines and forfeitures for breaches of rules, for the election and the conduct of the duties of the executive committee, and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules and resolutions when made and passed may at a like meeting be altered, added to, amended or cancelled subject, however, to the requirements of section 9.

10. All debts and liabilities of the said Sinhala Welenda Mandalaya 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 to, the said Sinhala Welenda Mandalaya shall be paid to the said corporation for the purposes of this Ordinance.

Powers of the executive committee.

7. The executive committee shall have power to make rules and pass resolutions regarding the procedure to be adopted in the transaction of its business. It shall appoint and allocate the duties of various officers, agents, representatives and servants of the corporation and fix their salaries. It shall be responsible for the collection of dues to the corporation and the expenditure

11. The corporation shall be able and capable in law to take and hold either as beneficial owner or as trustee or otherwise 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 (a) for the purpose of this Ordinance and subject to the rules for the time being of the said corporation or (b) otherwise for the purpose of and upon the trusts and subject to the conditions in

* Schedules omitted.—Private enactment.

the relative instrument or disposition contained, with full power (subject always to the provisions of any written law relating to trusts and of the relative instrument or disposition) to mortgage, lease, exchange, or otherwise dispose of, encumber or charge such property except immovables and fixed deposits and savings deposits which shall be vested with the board of trustees.

12. (a) The board of trustees of the corporation shall consist of not more than fifteen members of the Mandalaya.

(b) The first board of trustees shall be—

Henry Woodward Amarasuriya (Chairman),
Nayage Porolis Fernando (Vice-Chairman),
Kodagoda Arachchige Albert Perera,
Malagalage Don Gunasena,
Yasachandra Pinchabadu Wickremasinghe,
Kukulage Winson Lionel Perera,
Dewnuge Lionel Fairlie Pedris,
Galbode Paiyagalage Don Gabriel,
Gate Muhandiram Senapathige Theobald
Philip Rodrigo,
Muhandiram Pedrick Wakwella,
Wickremage Don Paulus Appuhamy,
Muhandiram Garanduwe Barage Kirigoris
Waidiyasekera Jayaratne,
Wewelwela Hewage Hendrick,
Leo Ernest Jerome Fernando,
Bharati Sirisena Kottegoda.

(c) The functions of the board of trustees, and powers are shown in Schedule B*, which may be changed by the corporation at a general meeting as and when necessary at the direction of the board of trustees or the executive committee.

(d) All vacancies of the board of trustees shall be filled by the general meeting.

13. The liability of each member of the corporation under this Ordinance shall be limited to the transactions of the corporation which shall have occurred during the period of his membership, and to the maximum sum of one hundred rupees over and above such annual subscription or subscriptions as may be due from such member to the corporation.

Limit of liability of members.

14. The committee in office at the time of the passing of this Ordinance shall continue in office until the election of the executive committee at the first annual general meeting held after the passing of this Ordinance.

Duration of office of the existing executive committee.

15. 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 person, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of rights of the Republic and others.

• Schedules omitted.—Private enactment.

CHAPTER 73

THE TESAWALAMAI

Regulation
No. 18 of 1806,
Ordinance
No. 5 of 1869.

A REGULATION FOR GIVING FULL FORCE TO THE " TESAWALAMAI " OR THE CUSTOMS OF THE MALABAR INHABITANTS OF THE PROVINCE OF JAFFNA, AS COLLECTED BY ORDER OF GOVERNOR SIMONS IN 1706.

[9th December. 1806.]

Short title.

1. This Regulation may be cited as the *Tesawalamai* Regulation.

Tesawalamai
as collected by
Governor
Simons to be
in force.

2. The *Tesawalamai*, or customs of the Malabar inhabitants of the province of Jaffna, as collected by order of Governor Simons, in 1706, shall be considered to be in full force.*

What questions
may be decided
according to
Tesawalamai.

3. All questions between Malabar inhabitants of the said province, or wherein a Malabar inhabitant is defendant, shall be decided according to the said customs.

Questions
which relate to
the rights and
privileges of
castes to be
decided
according to
Tesawalamai.

4.+ All questions that relate to those rights and privileges which subsist in the said province between the higher castes, particularly the Vellales, on the one hand, and the lower castes, particularly the Covias, Nalluas, and Palluas, on the other, shall be decided according to the said customs and the ancient usages of the province.

(Promulgated by the Dutch Government of Ceylon in the year 1707.)

Description of the jaffnapatam Ancient Customs and Rules according to which persons of this Province are in the habit of recovering in Civil Matters, such as Inheritances, Adoptions, Gifts, Seizure, Purchase and Sale, Pledging and Redemption of Land and Gardens, &c., drawn up and" collected by me, the undersigned, pursuant to the Order of Our honourable Commandeur the Governor of

Ceylon, Cornelis Joan Simons, and the Council at Colombo, by Letter dated 14th August, 1706, directed hither, according to the experience which I, in the period of seven and thirty years that I have been passing here, of which said period most has been in this Province, have acquired.

PART I

OF INHERITANCES AND SUCCESSION TO PROPERTY

1. Different kinds of property.
2. Of dowry.
- 3—6. Of the marriage of daughters and the dowry given with them. -
7. Of the marriage of sons and their portions.
8. Of resignation of property.
9. Of succession to property where children and their mother are left.
10. Property how to be divided where the mother marries again.
11. Of succession to property where children and their father are left.
12. Of the division of property where orphan children are left.
13. Division of property where there are half-brothers and sisters.
14. Division of property where there is issue of both marriages.
15. Division of property where two persons, each being the sole child of their respective parents, die without issue.
16. Property how to be divided where it has been improved.
17. How where a Pagan marries a Christian woman.
18. How where two Pagans intermarry.

I WILL commence by stating that a man and woman being married all descending heirs must proceed from them, and from them likewise can be indicated the inheritance in the ascending relation.

* So much of the provisions of the *Tesawalamai* as is inconsistent with the Jaffna Matrimonial Rights and Inheritance Ordinance, is repealed by that Ordinance ; and so much of the *Tesawalamai* as is inconsistent with the provisions of the *Thesawalamai* Pre-emption Ordinance is repealed by section 14 thereof.

t See the Prevention of Social Disabilities Act.

DIFFERENT KINDS OF PROPERTY

1. From ancient times all the goods brought together in marriage by such husband and wife have from the beginning been distinguished by the denomination of *modesium*, or hereditary property, when brought by the husband, and when brought by the wife were denominated in the Tamil language *chidenam*, or by us *dowry*; the profits during marriage are denominated *tediatetam*, or *acquisition*. On the death of the father all the goods brought in marriage by him should be inherited by the son or sons, and when a daughter or daughters married they should each receive dowry, or *chidenam*, from their mother's property, so that invariably the husband's property always remains with the male heirs, and the wife's property with the female heirs, but the acquisition or *tediatetam* should be divided among the sons and daughters alike; the sons, however, must always permit that any increase thereto should fall to the daughters' share.

OF DOWRY

2. But in process of time, and in consequence of several changes of Government, particularly those in the times of the Portuguese (when the Government was placed by order of the King of Portugal in the hands of Don Philip Mascarenha), several alterations were gradually made in those customs and usages, according to the testimony of the oldest Mutaliyars, so that, at present, whenever a husband and wife give a daughter or daughters in marriage the dowry is taken indiscriminately, either from the husband's or wife's property, or from the *acquisition*, in such manner as they think proper, that is to say, by parts and pieces, for there is scarcely any person who can say that he possesses the sole property of entire pieces of ground, gardens, companies of slaves,* &c., for it will generally be found that he is actual owner of not more than the half or one-sixteenth part or less of the property.

OF THE MARRIAGE OF DAUGHTERS AND
THE DOWRY GIVEN WITH THEM

' 3. The nearest relations, either on the father's or mother's side from a particular regard to the bride, in order that such bride

may make a better marriage, often enlarge the dowry by adding some of their own property to it: and such a present should be particularly described in the *doty*, *marriage act*, or *ola*. which must specify by whom the present or gift is made, and the donor must also sign the act or *ola*: but such a donation or gift is voluntary. When the act of *doty* is executed it is presumed that it is done without fraud, but the donor does not point out therein what his share is of the pieces of ground, gardens, or slaves which he gives by pieces to his daughter or daughters, but says merely " such and such part of such a piece of ground ", so that frequently, the receiver or bridegroom finds himself deceived in his expectations, which always causes differences and disputes, for many often expect to get a sixth part when they do not get more than one-sixteenth. For instance, a husband and wife having five children, namely, two sons and three daughters, and possessing a quarter or fourth part of a ground called *Vdrakkuli*, of which they give as a dowry to each of their daughters, when they marry, a fourth part of their (the husband's and wife's) share in the said ground, which together is three-fourths, and retain the other one-fourth for themselves as long as they live; but after their death the two sons come and take each the half, consequently the daughters have no more than one-sixteenth part each of the said ground, and the two sons each but one thirty-second part; and it is the same with the donations of gardens, slaves, &c., from which often disputes also arise. The daughters must content themselves with the dowry given them by the act or *doty ola*, and are not at liberty to make any further claim on the estate after the death of their parents, unless there be no more children, in which case the daughters succeed to the whole estate. And in case (he new-married couple, to whom one or more pieces of the said gardens, slaves, &c., have been given in marriage, do not take possession thereof within ten years, they forfeit their claim thereto : for there has been of old, since the time of the Tamil kings, a proverb, *Ottiyum chitanamum pattiyal*, that is, immediate possession must be taken of dowry and pawns. If this be not done, the lands,

* Slavery has since been abolished by the Abolition of Slavery Ordinance, No- 20 of 1844, referred to in the List of Enactments omitted from the Revised Edition.

gardens, slaves, &c., again become a part of the common estate in the same manner as if they had never been given to the young married couple, unless they can produce an act of their parents concerning their delay in taking such possession.

4. If a father or mother gives as a dowry to their daughter or daughters a piece of land or garden which is mortgaged for a certain sum of money, and say in the *doty ola*, "a piece of land called *Kaluvanpanku*, which is mortgaged to *Kantar Putar* for sixty fanams; but which the bridegroom and his bride must redeem for that money", and if they are unable to do it, and the mortgagee does not wish to retain any longer, the mortgage for the money lent by him, the parents themselves are obliged to redeem it; and notwithstanding (although it be fifty years afterwards) the said mortgaged land or garden devolves again to the child to whom it was originally donated by the *doty ola*. provided the money for which it had been mortgaged is paid by such a child.

5. If one or more pieces of land, garden, or slaves, &c., are given as a marriage gift, respecting which at the expiration of some years a lawsuit arises, and the young couple lose the same by the suit, the parents who gave the same (and after their decease the sons) are obliged to make good the loss of the land, garden, or slaves, &c., for a well-drawn up and executed *doty ola* must take effect because it is by this means that most of the girls obtain husbands, as it is not for the girls but for the property that most of the men marry; therefore, the dowry they lose in the manner above stated must be made good to them, either in kind or with the value thereof in money. Should it happen that after the marriage of the daughter or daughters the parents prosper considerably, the daughters are at liberty to induce their parents to increase the *doty*, which the parents have an undoubted right to do.

If all the daughters are married in the manner above stated, and each has received the dowry then given by their parents, and if one or more of them dies without issue, in such case the property indisputably devolves to the other sisters, their daughters, and granddaughters; but if there should be none of them in existence, the property in

such case falls in succession to the brothers, their sons, and grandsons, if any; if not, the property reverts to the parents, if alive; and if not, the father's *modesium*, or hereditary property, and the half of the *tediate'tam*, or acquired property (after deducting therefrom the half of the debts), devolves first to his brother or brothers, then to their sons and grandsons; and the mother's *chidenam*, or dowry, with the other half of the acquired property, after deducting therefrom also the remaining half of the debts, devolves to her sister or sisters, their daughters, or granddaughters, *ad infinitum*.

6. Although it has been stated that where a sister dies without issue the dowry obtained by her from her parents devolves to her other sister or sisters, yet it sometimes happens that her mother, having in the meantime become a widow and poor, requests the sister or sisters of the deceased to allow her to take possession of the property of her deceased daughter, and to keep the same as long as she lives, to which they sometimes agree, but are by no means bound to do it; but in order that they may not subject themselves to any loss, they ought to have the property described and registered, otherwise on the mother's death the son or sons will come and take possession of all that she has left.

•OF THE MARRIAGE OF SONS AND THEIR PORTIONS

7. Having pointed out the manner in which the daughters are given in marriage, and what becomes of their property when they die, I will now proceed to state what relates to the sons. So long as the parents live, the sons may not claim anything whatsoever; on the contrary, they are bound to bring into the common estate (and there to let remain) all that they have gained or earned during the whole time of their bachelorship, excepting wrought gold and silver ornaments for their bodies which have been worn by them, and which have either been acquired by themselves or given to them by their parents, and that until the parents die, even if the sons have married and quitted the paternal roof-

So that when the parents die, the sons then *first* inherit the property left by their parents, which is called *modesium*. or hereditary property; and if any of the sons die without leaving children or grandchildren, their property devolves in the like manner as is said with respect to the daughters* property, which devolves to the women as long as there are any. The property of the sons, therefore, devolves to the men, and in failure of them to the women; and although the parents do not leave anything, the sons are nevertheless bound to pay the debts contracted by their parents, and although the sons have not at the time the means of paying such debts they nevertheless remain at all times accountable for the same; which usage is a hard measure though according to the laws of the country.

OF RESIGNATION OF PROPERTY

8. Should it happen that age renders the parents incapable of administering their own acquired property, the sons divide the same, in order that they may maintain their parents with it, and it will be often found that sons know how to induce their parents to such a division or resignation of their property, with a promise of supporting them during the rest of their life; but should the sons not fulfil their promise, the parents are at liberty to resume the property which has been so divided among the sons, which is not done without a great deal of trouble and dispute. And the experience of many years has taught us that such parents (in order to revenge themselves on their sons), endeavour by unfair means to mortgage their property for the benefit of their married daughters or their children; and for this reason it has been provided by the *Commandeur* that such parents may not dispose of their property either by sale or mortgage without the special consent of the *Commandeur*, which is now become a law.

OF SUCCESSION TO PROPERTY WHERE CHILDREN AND THEIR MOTHER ARE LEFT

9. If the father dies first leaving one or more infant children, the whole of the property remains with the mother, provided she takes the child or children she has procreated by the deceased until such child

or children (as far as relates to the daughters) marry; when the mother, on giving them in marriage, is obliged to give them a dowry, but the son or sons may not demand anything so long as the mother lives, in like manner as is above stated with respect to parents.

PROPERTY HOW TO BE DIVIDED WHERE THE MOTHER MARRIES AGAIN

10. Should, however, the mother marry again and have children by her second marriage, then she does with the daughters as is above stated with respect to parents. But it is to be understood that if she has daughters by her first husband she is obliged to give them, as well as the daughters by her second husband, their dowries from her own *doty* property; and if the son or sons marry or wish to quit her, she is obliged to give them the hereditary property brought in marriage by their father and the half of the acquired property obtained by the first marriage, after deducting therefrom the dowry which may have been given to the daughters.

If the mother of whom we have just spoken also dies, the sons, both of the first and second marriage, succeed to the remaining property which the mother acquired by marriage; besides which such son or sons are entitled to the half of the gain acquired during the mother's marriage with his or their father, and which remained with the mother when he or she married, and provided that therefrom are also to be paid the debts contracted by her or their father when alive.

But, if any part of that property is diminished or lessened during the second or last marriage, then the second husband, if he still be alive, or if he be dead, his son or sons, are obliged to make good the deficiency, either in kind or in money, in such manner as may be agreed upon.

On the other hand, the son or sons of the second marriage are entitled to the hereditary property brought in marriage by his or their father, and also to the property acquired during marriage, after all the debts contracted by him shall have been paid from the same.

OF SUCCESSION TO PROPERTY WHERE CHILDREN AND THEIR FATHER ARE LEFT

11. If the mother dies first, leaving a child or children, the father remains in the full possession of the estate so long as he does not marry again, and does with his child or children and with his estate in the like manner as is above stated with respect to the mother.

If a father wishes to marry a second time, the mother-in-law or nearest relation generally takes the child or children (if they be still young) in order to bring them up; and in such case the father is obliged to give at the same time with his child or children the *whole* of the property brought in marriage by his deceased wife and the half of the property acquired during his first marriage. When those children are grown up and able to marry, that is to say, the daughters (if any there be), the father must go to the grandfather or grandmother with whom the children are, in order to marry them and to give them a dowry both from their deceased mother's marriage portion and from the acquired property, which, as before stated, had been given to the relations with the children, and from his own hereditary property.

This being done, and if anything remains of what had been given to the relations with the children as above stated, and if the son or sons have acquired a competent age to administer what remains, they then take and possess the same without dividing it until they marry, when they divide it equally among themselves, together with the profits acquired thereon; but if they make a division immediately on taking possession of what remains, so that each possesses his share separately, then they are not obliged to share with each other what each has acquired.

But should there remain nothing of the mother's property and of the half of the acquired property during marriage, the sons, whether young men or married, must do as well as they can until their father dies; for these sons by the former marriage cannot claim anything from this their father.

If such a father has by his second wife a child or children, and among them a son or sons (for it is unnecessary to say anything further concerning daughters), and dies, his property which exists is divided into two equal shares, one of which the son or sons by the first wife take and the other the son or sons by the second wife, although there should be but one son of the first and five or six of the second. And what remains of the half of the acquired property during the first marriage must also devolve to the son or sons of that marriage; but if any part thereof has been diminished during the second marriage, then the sons of this marriage are obliged to make good the deficiency to the sons of the first marriage in the manner above stated, and the son or sons of the second marriage divide the property acquired during that marriage, and also the remaining part of that which has not been given as a dowry to the sisters (but not before their mother is dead); in which case the sons are obliged to pay all the debts contracted by the father during his marriage with their mother-

OF THE DIVISION OF PROPERTY WHERE ORPHAN CHILDREN ARE LEFT

12. If the father and mother die without being married more than once, and their surviving children are infants under age, then the relations of both sides assemble to consult to whose care the children are to be entrusted; and a person being chosen, the children are delivered to him together with the whole of the property left by the parents, which remains with such persons, until they attain a competent age to marry; and when they are grown up it is to be supposed that it will be the turn of the eldest first to marry, when the friends must again assemble to consult what part of his or her parents' property shall be given to him or her as a dowry, with which he or she must be content. In order to understand the following observations better, we will limit the number of brothers and sisters remaining unmarried to *three*— that is to say, two brothers and one sister—which last, on account of some misfortune or other, remains unmarried. If the brothers (having attained in the meantime a competent age) marry, and if she desires that the remaining property of her parents

shall be divided, the relations and possessors thereof may not refuse it; but the brothers must in such case allow their sister who remains unmarried to have a larger share—This, however, the brothers often oppose, particularly when there is but little, because when the unmarried sister dies the married one succeeds to all that the unmarried one was possessed of.

But should it happen that both the brothers after they have grown up and are married possess the beforementioned property without having divided it, and that the unmarried sister receives nothing else besides what is necessary to provide herself with subsistence and clothing until her death, in such a case the whole of the property remains with the brothers, and the married sister has no right or claim thereto ; and should it happen that the unmarried sister had allowed herself to be deflowered and thereby had a child, she (in order to bring it up decently) ought to agree with the brothers and sister to divide the estate of their parents, in order to enable her to allot her child a certain portion thereof.

DIVISION OF PROPERTY WHERE THERE ARE HALF-BROTHERS AND SISTERS

13. With respect to the succession of half-brothers and sisters, if a woman who has been married twice, and by the first husband has had a son and by the second a son and daughter, and these all survive their parents, and act with their parents' estate as is above mentioned, and if the son of the second marriage dies without leaving a child or children, and the question is. Who shall inherit the deceased's estate ?—(respecting which the principal Mutaliyars and inhabitants have not agreed) —many are of opinion that the full sister must be preferred above the half-brother, but this would be quite contrary to the old established laws. Therefore I agree in opinion with the greatest part of the inhabitants who have been consulted on the subject, that the half-brother, from the side he is brother—that is to say, from the mother's side—must succeed to the inheritance, and the sister, because there cannot be brothers from the father's side, must succeed to all that is come from the father's side, and the acquired property must be divided half-and-

half between the half-brother and full sister, provided that it has been acquired by means of the mutual property.

DIVISION OF PROPERTY WHERE THERE IS ISSUE OF BOTH MARRIAGES

14. If the husband has been married twice, and has by his first wife had a son and daughter, and only one daughter by his second wife, and if the daughters have been married and received a dowry, and the father dies, it would be supposed, from what has been stated, that the son must succeed to the estate of the deceased; but in this case it may not take place, for the daughter of the second marriage must inherit equally with her brother, there being no full brother to inherit. If a man has a child or children and his brother and sister die before or after him without children, then this man's son succeeds both to his brother's and sister's property as well as to that of his deceased father.

It is the same with a woman who has a child or children, and whose brother or sister dies afterwards without leaving children, for this woman's daughter or daughters inherit both from the brother and sister of her or their deceased mother; but if the said brother and sister die first, and if the mother of the before-mentioned daughter is still alive, then the mother inherits from the brother and sister, whereby the daughters remain deprived of that inheritance, for when the mother afterwards dies her son or sons are justly entitled to all that their mother leaves at her death.

DIVISION OF PROPERTY WHERE TWO PERSONS. EACH BEING THE SOLE CHILD OF THEIR RESPECTIVE PARENTS, DIE WITHOUT ISSUE

15. In the case of two married persons, each in particular being the sole child of their respective parents, all that the mutual parents possessed must be brought together; and if the husband dies without leaving a child or children, then the property which proceeded from the father returns to the father's nearest relations, and to his mother's nearest relations all her dowry which he inherited and of the

acquired property and debts, each a fourth part. The same usage obtains, as it respects her, for all that she inherited from the father returns to the father's nearest relations, and her mother's dowry to the mother's nearest relations, and of the acquired property and debts to each a fourth part, excepting that the gold and silver made for the husband's use goes reciprocally to his own father and to his mother's relations, and all that was made for the wife's use and worn by her goes to her relations, although there should be on the one side the value only of ten rix-dollars and on the other the value of one hundred rix-dollars.

Having thus stated what is to be done with the property when a husband and wife die, one after the other, without leaving a child or children, it is now necessary that we show, in case one of them dies, what the heirs ought to do to prevent all difficulties and losses. They must cause the survivor to return what was brought in marriage by the deceased, and also the half of the acquired property, they being justly entitled thereto ; but if from motives of affection or otherwise the heirs wish to leave the survivor in the possession of any part of the inheritance, they must do it in writing. If they neglect to do this, they must when the survivor marries again, take back the property left in his or her possession. But if they do not do this also, and if he or she, having children by the second marriage, dies, in such case the heirs who have suffered so many years to elapse without claiming the property as are established by the laws of the country remain deprived thereof. With respect to the crops that have been gathered, when one of them has died, disputes have often risen, one pretending that so much was produced from the hereditary lands, while the other pretends that so much was produced from the dowry lands ; but no attention is paid to such claims, for all kinds of grain collected are considered as acquired property, which they really are, and as such are divided equally.

Should any of the man's hereditary property or woman's dowry be diminished during marriage, when one of them dies and the property is divided the same must be made good from the acquired property, if it be sufficient; if not, he or she who suffers the loss must put up with it patiently.

PROPERTY HOW TO BE DIVIDED WHERE IT HAS BEEN IMPROVED

16. Should husband and wife during marriage considerably improve a piece of ground, whether it be husband's hereditary property or wife's dowry—for instance, by building houses, digging wells, and planting all sorts of fruit-bearing trees thereon—the heirs of the wife, should she die first, and should the improved ground be the husband's hereditary property, shall not be at liberty to claim any remuneration for the expenses made. In the like manner also the husband's heirs cannot claim any remuneration should the wife's dowry ground have been improved.

HOW WHERE A PAGAN MARRIES A CHRISTIAN WOMAN

17. If a Pagan comes from the Coast or elsewhere and settles himself here, and being afterwards inclined to marry a Christian woman procure himself to be instructed in the Christian doctrine, and being sufficiently instructed is at last baptized and married, and by his industry acquires property by means of what his wife has brought in marriage, his heirs (should he die afterwards without leaving a child or children) shall not be entitled to anything: for, not having brought anything in marriage they consequently shall not carry anything out, and being moreover Pagans. But should the wife die first without leaving any child or children, the husband is lawfully entitled to the half of the acquired property, it having been gained by his industry.

HOW WHERE TWO PAGANS INTERMARRY

18. If a Pagan comes here as just stated and marries a Pagan woman, and such Pagan dies without leaving a child or children, his relations inherit the half of the property acquired during marriage, because should he have left any child or children, and should they or his relations claim the inheritance, they certainly would get it without his having brought anything in marriage, they being Pagans; but having once embraced the Christian religion the Pagan's relations are not entitled to anything. Pagans consider as their lawful

wife or wives those around whose neck they have bound the *taly* with the usual Pagan ceremonies; and should they have more women, they consider them as concubines. If the wives, although they should be three or four in number, should all and each of them have a child or children, such children inherit, share and share alike, the father's property; but the child or children by the concubines do not inherit anything.

PART II

OF ADOPTION*

1. Ceremonies of adoption.
2. Of the succession to, and division of, property, in the case of adoption, where the parties adopting leave other children.
3. Where the adopted person dies without issue.
4. Where two children, not related, are adopted.
5. Of the division of property among adopted children, to the adoption of whom some of the relatives of the person adopting consent, while others refuse their consent.
6. Where one of three brothers adopts a child,
7. Of the adoption of a person of a higher or lower caste.

CEREMONIES OF ADOPTION

1. If a man and woman take another person's child to bring up, and both or one of them being inclined to make such child their heir, they must first ask the consent of their brothers and sisters, if there be any—if not, that of their nearest relations who otherwise would succeed to the inheritance ; and if they consent thereto, saffron water must be given to the woman or to the person who wishes to institute such a child their heir, to drink in the presence of the said brothers or sisters or nearest relations, and also in the presence of the witnesses, after the brothers and sisters or nearest relations, and also the parents of the child, shall previously have dipped their fingers in the water as a mark of consent. Although there be other witnesses, it is nevertheless the duty of the barbers and washermen to be present on such occasions.

If the brothers and sisters refuse to give their child, such a man and woman may take the child of another person, although a stranger, but they are not at liberty to drink saffron water without the consent of their brothers and sisters or of those who

conceive themselves to be heirs; although this litigious people, from mere motives of hatred, often endeavour to prevent a man and woman who have brought up a child with the same love and tenderness as their own from adopting such child. Nevertheless, according to the testimony of all the Mutaliyars, such a man and woman may, in spite of the opposition, adopt such a child and bequeath it one-tenth part of the husband's hereditary or wife's dowry property ; out of the acquired property they may bequeath more than one-tenth, provided they have not many debts. But such an adoption may not be made without the consent of the Magistrate,* in order to keep them within the bounds of discretion, and also in order to prevent them from adopting children from motives of hatred towards their relations.

OF THE SUCCESSION TO, AND DIVISION OF, PROPERTY IN THE CASE OF ADOPTION, WHERE THE PARTIES ADOPTING LEAVE OTHER CHILDREN

2. But when the said man and woman have both together drunk saffron water, such or such a child shall inherit all that they leave when they die ; and if, after such adoption, they have a child or children of their own, then such adopted child inherits together with the lawful child or children. And it is to be observed that such an adopted child, being thus brought up and instituted an heir, loses all claim to the inheritance of his own parents, as he is no longer considered to belong to that family, so that he may not inherit from them. If the adopting father alone drinks saffron water then such a child shall succeed to the inheritance of his or her own mother: and if the adopting mother has alone drunk saffron water without her husband, then such a child inherits also from his or her own father.

WHERE THE ADOPTED PERSON DIES WITHOUT ISSUE

3. If such an adopted person dies without leaving a child or children, then all that he or she might have inherited returns to the person or persons from whom it came, or to their heirs.

* See also section 16 of the Adoption of Children Ordinance.

WHERE TWO CHILDREN, NOT RELATED,
ARE ADOPTED

4. If a husband and wife adopted two children, a boy and a girl who are not related to one another by blood, so that they can marry together, and if both husband and wife together drink saffron water in manner above stated, and if both the said adopted persons be married together after they arrive to the age of maturity, and at the expiration of time one of them dies without leaving a child or children, then the survivor inherits the whole on account of the adoption which binds them as brothers and sisters, and not in the blood. It goes in the same manner if husband and wife, after having adopted a boy, have a daughter of their own. Such a boy is allowed to marry with the daughter, provided they are not nearer related by blood than brothers* and sisters' children, and they inherit from one another as before mentioned.

DIVISION OF PROPERTY AMONG ADOPTED CHILDREN, TO THE ADOPTION OF WHOM SOME OF THE RELATIONS OF THE PERSON ADOPTING CONSENT, WHILE OTHERS REFUSE THEIR CONSENT

5. If a husband and a wife wish to adopt another person's child to which adoption some of his or her brothers and sisters or nearest relations consent, and others do not consent, in such case the husband and wife are at liberty to adopt such a child, and to make him the heir to so much as the share amounts to of those who have consented to the adoption, and who, as a token thereof, must have dipped their fingers in the saffron water drunk by the husband and wife, leaving the inheritance to which the non-consenting party is entitled at their disposal, until such a time as husband and wife, or one of them dies, when the child and each of them take the shares to which they are entitled. But if the said heirs, either through negligence or otherwise, permit or allow the adopted person to remain for several years in the peaceable possession of the property, the heirs by their silence forfeit their claim and title thereto.

* The Tamil version in Muttukrishna's *The'sawalamai* reads " even though the other brother who has also no children does not approve ".

WHERE ONE OF THREE BROTHERS
ADOPTS A CHILD

6. If there are three brothers, one of whom has two children and the other two have none, and if one of these wishes, from pure motives of affection, to adopt one of his brother's children, which the other brother who has also no children wishes to approve,* the two brothers may carry their design into execution, leaving to the third brother the action which he pretends to have on the inheritance. On the death of such adopting brother all his property is divided between the adopted child and the non-consenting brother, share and share alike. If the non-consenting brother, who has no children, wishes to give some of his property to the child who has remained with the father unadopted, the question is, whether the adopted child can prevent it? The general opinion now is that on account of the right which he had thereto (as nephew and heir of his uncle) being lost by the adoption, he must allow the giver to do with his property what he pleases as long as he lives.

OF THE ADOPTION OF A PERSON OF A HIGHER OR LOWER CASTE

7. If a man adopts in the manner above stated a youth of a higher or lower caste than his own, such child not only inherits his property, but immediately goes over into his adopted father's caste, whether it be higher or lower than his own. But if a woman adopts a child, such child cannot go over into her caste, but remains in the caste of his own father, and will only inherit the woman's property after death,

If a man adopts a girl of another caste in the manner above stated, *she* (it is true) goes over into the caste of her adopted father, but not her children or descendants: for if she marries, and has a child or children, they follow their father, except among slaves, in which case it has another tendency, for there the fruit follows the womb.

PART III

OF THE POSSESSION OF GROUNDS
AND GARDENS. &c.

1. Of joint possession or tenancy in common.
2. Of the renting of ground.
3. Division of produce where fruit trees overhang the ground of another.
4. To whom the possession of palmyra trees belongs.

OF JOINT POSSESSION OR TENANCY
IN COMMON

1. If two or more persons possess together a piece of ground without having divided it, and one of them incloses with a fence as much as he thinks he would be entitled to on a division, and plants thereon coconut and other fruit-bearing trees, and the other shareholders do not expend or do anything to their share of the ground until the industrious one begins to reap the fruits of his labour, when the others, either from covetousness or to plague and disturb, come (which is frequently the case among the Tamils) and want to have a share in the profits without ever considering that their laws and customs clearly adjudge such fruits to the person who has acquired them by his labour and industry—when in such a case (not being able to obtain the fruits) they generally request to divide the ground to know what belongs to each person, such division may not be refused. But care must be taken in making it that the part which has been so planted falls to the share of the brother who planted the same, and that the unplanted part falls to the share of the other joint proprietors ; unless they wish to put off the repartition of the ground and give one another time to plant an equal number of trees, and by proper attention to get them to bear fruit, in which case the repartition must be general without considering who has planted the ground.

OF THE RENTING OF GROUND

2. If a person has not a proper piece of ground of his own on which to plant coconut trees, and is allowed to do it on another man's ground, he gets two-thirds of the fruits which the trees planted by him produce, provided that he himself

furnished the plants, and the owner of the ground receives the other third ; but if the owner of the ground supplies the plants, the planter gets but one-third and the owner of the ground the other two-thirds; if, however, they have *both* been at an equal expense for the plants, then they are each entitled to an equal share of the fruits and trees. This division mostly takes place in the province of Tenmaradchi, for in the other provinces they know better how to employ their grounds than to let strangers plant coconut trees thereon. If a labourer squeezes out his *panankays* and sows the kernels in order to obtain plants, and on digging them out forgets some of them, which afterwards become full-grown trees bearing fruit, the fruit which they produce remains the property of the owner of the ground, the trees having grown of themselves without any trouble (such as watering them) having been taken.

DIVISION OF PRODUCE WHERE FRUIT
TREES OVERHANG THE GROUND OF
ANOTHER

3. If anyone plants on his ground near the boundaries thereof any fruit-bearing trees which must be cultivated with a great deal of trouble, and if by a crooked growth the tree or any of the branches grow on or over the neighbour's grounds, the fruits of such tree nevertheless remain the entire property of the planter, without his neighbour having any right to claim the fruit of the branches which hang over his ground ; but if any trees, such as tamarinds, illupai, and margosa, grow of themselves without having been planted or any trouble having been taken, in such case the fruit belongs to the person whose ground they overshadow.

It seems that many customs have been invented here for the sole purpose of plaguing one another: for it is sufficient to say that the trees which stand on a person's own ground have grown up of themselves without trouble or labour, and that he is not to be the owner of the branches and fruit which grow over his neighbour's ground, the fruit of such branches being indisputably his; and he is even at liberty to cut the branches, if they hinder him, and sell the same for his own profit without the consent of the owner of the ground on which the

trees stand. And the owner of the branches cannot also prevent the owner of the tree from cutting it down, but in such a case he must give the branches to the person over whose ground they hang. But, on account of the margosa oil, it has been ordered, since the Company has had possession of the country, that the trees are not to be cut down without the special consent of the persons in power ; and it is the same with all other fruit-bearing trees.

TO WHOM THE POSSESSION OF PALMYRA TREES BELONGS

4. Although a piece of ground belongs to one person and the old palmyra trees standing thereon belong to another person, the owner of such trees cannot claim the young trees, as they must remain to the possessor of the ground, excepting in the village of Arali, where it is an ancient custom that the owner of the old trees takes possession of the young trees, which is the reason why only a few young trees are found in that village. For although a few ripe *panankays* fall occasionally from the trees upon the grounds from which young plants proceed, the owner of the ground, when he wants to cultivate it, has a right to extirpate such plants in order to get rid of other persons' trees on his ground.

In the province of Tenmaradchi and Pachchilaippalli, in so far as the trees, and not the grounds stand mentioned in the Company's *Tompu*, the owners of the old trees take the young ones; but where the grounds are mentioned and also the young trees, and for which rent is paid, then the young palmyra trees belong to the owners of the grounds-

PART IV

OF A GIFT OR DONATION

1. In what cases a gift may or may not be made where husband and wife live separately.
2. How far they may make donations to their nephews and nieces.
3. When they receive a gift of land from another person.
4. How far gifts to one of two sons are good.
5. Presents to sons, being bachelors, by relations, remain to them on their marriage, but no other presents.

IN WHAT CASES A GIFT MAY OR MAY NOT BE MADE WHERE HUSBAND AND WIFE LIVE SEPARATELY

1. When husband and wife live separately on account of some difference, it is generally seen that the children take the part of the mother and remain with her. In such a case the husband is not at liberty to give any part whatsoever of the wife's dowry away; but if they live peaceably he may give some part of the wife's dowry away. And if the husband on his side wishes to give away any part of his hereditary property which he has brought in marriage, he may then give away one-tenth of it without the consent of the wife and children, and no more ; but the wife, being subject to the will of her husband, may not give anything away without the consent of her husband.

HOW FAR THEY MAY MAKE DONATIONS TO THEIR NEPHEWS AND NIECES

2. If a husband and wife have no children, and are therefore desirous to give away some of their goods to their nephews and nieces or others, it cannot be done without the consent of the mutual relations, and if they will not consent to it they may not give away any more of their hereditary property and dowry; and if their debts be not many, they may also give something from the property acquired during their marriage. If those nephews and nieces who have received such donations die without issue, then the brothers inherit from brothers and sisters from sisters, and the children and grandchildren succeed also if there be any; if not, it devolves to the parents of those who obtained the donation, that is to say, to their father's side and to his brother and his children, and in like manner on their mother's side to her sister and her daughters, and on failure of them to the brothers and their children; and in default of heirs on his or her side the gift returns to the donor and his nearest heirs.

WHEN THEY RECEIVE A GIFT OF LAND FROM ANOTHER PERSON

3. If a husband or his wife receives a present or gift of a garden from another person, so much of such gift or present as is in existence on the death of one of them,

when the property is divided, remains to the side of the husband or wife to whom the present was made, without any compensation being claimable for any part of the gift that may have been alienated; but the proceeds thereof acquired during marriage must be added to the acquired property. But if anyone has a present of a slave,* cow, sheep, or anything else that may be increased by procreation, such present, together with what has been procreated, remains to the side where it was given, without any compensation being claimable for what might have been sold or alienated thereof.

HOW FAR GIFTS TO ONE OF TWO SONS ARE GOOD

4. If a husband and wife have two sons and no daughters, and the husband, from a greater affection which he bears the eldest son more than the youngest, wishes to give him a part of his hereditary property, he may do it by executing a regular deed ; and if, after the expiration of some time, the youngest son dies without issue, and afterwards the parents die one after the other, then it will be as if the gift never had been made, for everything devolves to him who received the gift; and if he dies also without issue his property is inherited in the manner above stated. The father's hereditary property and the half of the acquired property, after deducting therefrom the debts, go to his brother or brothers, and the mother's dowry property and the other half of the acquired property (after deducting also therefrom the half of the debts) go to his sister or sisters, without the latter being at liberty to claim anything on account of what the father gave to his son as above stated. The same also obtains if the grant or gift had been made on the mother's side; but if the gift has been obtained from any other person besides the father and mother, then it is divided both on the father's and on the mother's side.

If husband and wife have two, three, or more sons, and have given and delivered to them a piece of ground or garden, and if, after having possessed it for several years, the

father and mother die, which causes a division of the estate, and if the above-mentioned son who has obtained the grant or gift demands that it shall be first delivered him from the estate, it may not be refused to him if he can prove it by a written document; if not, the gift is considered of no value, and is equally divided.

PRESENTS TO SONS, BEING BACHELORS, BY RELATIONS, REMAIN TO THEM ON THEIR MARRIAGE, BUT NO OTHER PRESENTS

5. We have stated above that all the property acquired by the son or sons while they are bachelors must be left by them to the common estate when they marry; but this is by no means understood to include the presents that have been made them by relations or others, which must remain to the persons to whom they have been given.

Should a husband and wife who have no children have acquired during their marriage any property, and should the husband, without the knowledge of his wife, give a part thereof to his heirs, and both afterwards die, in such case on the division of the estate the relations of the wife must receive beforehand a part equal to that which was given away by the husband to his relations when he was alive.

PART V

OF MORTGAGES AND PAWNS

- 1. Of mortgages of lands, on condition that the mortgagee should possess the same, and take the profits thereof in lieu of money.
- 2. Mortgagee'so in possession to be liable to all land taxes or duties.
- 3. Of redemption of a mortgage where due notice has not been given by the mortgagor.
- 4. Of mortgages for certain terms of years.
- 5. Of mortgages of fruit trees.
- 6. Of mortgages of slaves.
- 7. Of loans of money for the use of beasts.
- 8. Of pawns of jewels, Ac.

OF MORTGAGE OF LANDS, ON CONDITION THAT THE MORTGAGEE SHOULD POSSESS THE SAME AND TAKE THE PROFITS THEREOF IN LIEU OF MONEY

1. When any person has mortgaged his lands or gardens to another for a certain sum of money, upon condition that such

* Slavery has since been abolished by the Abolition of Slavery Ordinance, No. 20 of 1844, referred to in the List of Enactments omitted from the Revised Edition.

lands or gardens be possessed by the mortgagee, and that the profits thereof should be enjoyed by him instead of the interest of his money, then the mortgagor of such lands or gardens cannot redeem the same whenever he pleases, but after the crop has been reaped he must give information of his intention to the mortgagee so as to prevent any further trouble, labour, and expense to the latter. In such case the mortgagor must, without failure, pay "to the mortgagee the sum of money for which the said property has been mortgaged, namely, for the *varaku* lands in the months of July and August, and for the *paddy* lands in the months of August and September; but should the mortgagee have left the ground for the space of one year without sowing, for the purpose of having a better crop, in that case the mortgagor, will be obliged to pay the money for which the grounds have been mortgaged in the month of November in the same year, and in the month of November also must be redeemed the *plamyra, betel, and tobacco gardens*. Yet should the mortgagee conceive a dislike to the land or garden mortgaged to him on account of the same not yielding so much profit as the interest of the money for which the lands have been mortgaged, and should therefore wish to get rid of the same and to recover his money, he shall be obliged in that case to wait for his money one year after the lands or gardens have been delivered to the proprietor or the mortgagor; and if the mortgagor is and remains unable to redeem such land or garden, in that case the same must be offered for sale to his heirs, who then may purchase such lands or gardens in case the same are worth more than the amount for which they were mortgaged, but should they *not* be worth so much the mortgagee must then accept and keep the same for the sum advanced by him, provided he is confirmed in the full possession thereof by a title deed drawn up in proper form.

MORTGAGEE SO IN POSSESSION TO BE LIABLE TO ALL LAND TAXES OR DUTIES

2. The mortgagee is to pay all such taxes and land duties to which the mortgaged land is subject, so long as he remains in the possession of the same, even for that year in which the mortgaged land is redeemed; for

the payment of which taxes and duties the mortgagee must take a receipt from some person belonging to the Kachcheri, except in the province of Vadamaradchi, where the custom differs, because there the proprietor receives a tenth part of the fruits produced by the ground mortgaged by him, and he therefore pays the land duties and takes a receipt for the same in his own name; and for the palmyra trees he receives the duties upon the trees from the mortgagee or possessor, which duties he, as mortgagor, then pays to the Majorals and takes a receipt for the payment thereof in his own name.

OF REDEMPTION OF A MORTGAGE WHERE DUE NOTICE HAS NOT BEEN GIVEN BY THE MORTGAGOR

3. In case the mortgagor wishes to redeem his mortgaged ground, but out of ignorance informs the mortgagee too late of his intention, namely, after the ground has been dug or other labour has been bestowed on it, in that case the redeemer must give to the mortgagee his proper share from the fruits which the land has produced in that year for the labour and expenses which he has bestowed upon such lands ; in such case the redeemer must observe the customs prevailing in the province and village.

Yet when the mortgagee receives the money advanced by him, but cannot agree with the proprietor with respect to the profits expected by him according to the custom of the country, the proprietor in that case must permit (he mortgagee himself to sow that piece of land, provided that he gives to the proprietor of the land, according to the custom of the country the *taraivdram*, that is, the ground duty.

OF MORTGAGES FOR CERTAIN TERMS OF YEARS

4. At present it is the prevailing custom here that many persons mortgage their lands for a fixed term of three, five, eight, or ten years ; yet, in case the mortgagor before the expiration of the stipulated time shall be compelled to sell a piece of mortgaged land either for the purpose of discharging his debts or for some other reasons, the mortgagee cannot prohibit such a sale, but

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must consent to it and receive or accept the sum of money advanced by him according to the custom of the country.

OF MORTGAGES OF FRUIT TREES

5. If any person has mortgaged to another, in the manner above mentioned, any fruit-bearing trees, namely, coconut, mango, jak, or areca trees, and is able to redeem the same, he must do so in the months of December or January; and the mortgagee may pluck such ripe fruits as are eatable from the said trees before he delivers over the same to the proprietor.

OF LOANS OF MONEY FOR THE USE • OF BEASTS

7.* Should any person lend a sum of money to another upon condition that the debtor, instead of paying the interest, should furnish the lender with one or more beasts for the purpose of having his land ploughed, without mentioning, however, what buffaloes or bullocks are to be delivered by him during the period that he keeps the borrowed money under him, and should a beast or beasts so delivered to be used in ploughing the land happen to die during the said period, the debtor or the proprietor of such beast or beasts is obliged to furnish the lender of the money with one or more beasts instead of those which are dead, in order to be kept by the lender of such sums of money until his land has been ploughed, after which the borrower of the money may acquit himself from the said obligation by returning such sums of money as were borrowed by him.

OF PAWNS OF JEWELS, &C.

8. Should any person take in pawn any jewels or wrought gold or silver for a certain sum of money in order to receive a monthly interest upon the same, and should the proprietor of the pawned goods be able to prove that the pawnee has either worn them himself or has lent out the same to be worn by others, the pawnee in such case will forfeit the interest of the sum of money lent by him, and such pawnee will be obliged in

such case to return the pawn for such an amount as was lent by him to the pawner.

PART VI

OF HIRE

OF THE HIRE OF BEASTS

When any person has hired one or more beasts in order to plough his land, the proprietor of such beasts is not obliged to furnish the person who has hired the same with fresh beasts in case such as were hired become sick or happen to die during the time that they were used to plough the land. In case any person borrows from another any beasts for his use with the free consent of the proprietor, such proprietor, according to the custom of the country, may not demand from the borrower any indemnification for such of the beasts as are hurt or have broken their legs, but must consider the loss as accidental and consequently bear the same.

PART VII

OF PURCHASE AND SALES

1. Of sales of land.
2. Of sales of cattle.
3. Of the sale of children.

OF SALES OF LAND t

1. Formerly, when any person had sold a piece of land, garden, or slave, &c., to a stranger without having given previous notice thereof to his heirs or partners, and to such of his neighbours whose grounds are adjacent to his land, and who might have the same in mortgage, should they have been mortgaged, such heirs, partners, and neighbours were at liberty to claim or demand the preference of becoming the proprietors of such lands. The previous notice which was to be given to persons of the above description was to be observed in the following manner, namely, to such as resided at the village, one month; to persons residing in the same province but

* Section 6—"Of mortgages of slaves", is omitted.

t So much of the Tesawalamai as requires publication of intended sales or other alienations of immovable property is repealed by Ordinance No, 4 of 1895.

out of the village, three months; to those residing in another province, six months; and to those who reside abroad, one year.

should be passed in the name of the purchaser instead of that which has been repealed.

The above periods having expired without such persons having taken any steps upon the information given to them, the sale was considered valid; yet this mode of selling lands underwent an alteration afterwards in consequence of the good orders given on that subject during the time of the old Commandeur BLOOM (of blessed memory), as since those orders no sale of lands whatever has taken place until the intentions of such as wish to sell the same have been published on three successive Sundays at the church to which they belong, during which period such persons as mean to have the preference to the lands for sale according to the ancient customs of the country are to come forward and to state the nature of their preference in consequence whereof they then became the purchasers of the same.*

It is customary under this nation that a piece of land which has been mortgaged to one person is sold to another, for which sale, according to the above-cited order proper title deeds are granted, although the new purchaser is unable to discharge the amount of the purchase-money, and in consequence thereof pays immediately to the seller only that part of the purchase-money which exceeds the sum for which the land has been mortgaged and afterwards leaves the same in possession of the former mortgagee for the amount for which it was mortgaged by the former proprietor, until the new purchaser has the means to pay the amount for which the said land has been mortgaged. This manner, of dealing creates many disputes, as it occurs very often that such sums of money are not discharged before the expiration of eight, nine, or ten and more years, on which account I am of opinion (yet submitting mine to wiser judgment) that the passing of title deeds without the purchase amount being fully discharged should be prohibited or at least that orders should be given that in cases of the above-described nature the mortgage deed made previously in the name of the seller should be repealed, and that a new one

OF SALES OF CATTLE

2. If any person wishes to sell cattle, namely, bullocks, cows, buffaloes, sheep, &c., the sales thereof are to take place without any application or acts in writing, which sales are considered valid when the dry dung or excrement of such animals as were sold has been delivered by the seller to the purchaser; and in case the animals so sold happen to die or to get young ones before they are delivered up, the purchaser being able to prove by witnesses that the seller has sold them to him for a sum of money, and that the dry dung or excrement of those animals has been received in token of their having been sold, obtains the right of a proprietor of such animals as were purchased by him as well as of their young ones, without any claim whatever being made to them by any other person whomsoever, or any compensation for loss in case of death.

Should any person sell any of his bullocks or buffaloes, &c., upon a statement that they are fit to be employed in ploughing lands, and should the contrary appear to be the case after the price has been agreed upon and paid for them, the purchaser may in such case, within the period of fifteen days, deliver back to the seller such of the above-described animals, and may demand from him the price paid for the same, who in that case is also obliged to restore it to the purchaser.

Should any person sell a cow or a she-buffaloe to another stating that the animal sold has once or several times had young ones, and should it appear afterwards that the animal sold upon the above statement, instead of having had young ones once or several times, is a cow which never bears a calf, and consequently unfit for generation, the purchaser may in that case deliver back to the seller the cow or such other animals as were purchased by him, and he may demand from the seller the restoration of the purchase-money. But should any person,

* See also section 14 of the Thesawalamai Pre-emption Ordinance.

on the contrary, purchase a calf a year and a half or two years old, and should it appear afterwards that the calf so purchased grows up a cow which never bears a calf, or is unfit for generation, the purchaser is then obliged to keep the same, as no fraud whatever could have taken place in the sale thereof.

PART IX*

OF LOANS OF MONEY UPON INTEREST -

1. Of loans for fixed terms.
2. Securities how far liable for debt.
3. Wife or children how far liable for husband's debts.
4. Interest not to exceed the principal.
5. Of loans of paddy.
6. Of exchanges of paddy, &c.
7. What proportion of profits is to be paid where any person sows the grounds of another without stipulating any fixed portion of the produce.

OF LOANS FOR FIXED TERMS

1. When any person lends a sum of money upon interest to another upon condition that the borrowed sum should be restored within the time fixed by the lender, with such interest as was usually paid to others at the time that the money was lent by him, should such conditions not be fulfilled by the debtor, the creditor in that case must cause the pawn to be sold, if he has had the prudence to take any lands or any other goods whatever in pawn; and in case the debtor does not consent to the said pawns being sold, the lender of such sums of money must prefer his complaint to Government and request from the same that such mortgaged goods be sold for his benefit.

SECURITIES HOW FAR LIABLE FOR DEBT

2. Should there be securities and should the debtor or borrower abscond or be in reduced circumstances and unable to discharge the debt contracted by him, the creditor may then demand the payment of such debt from the securities, who in such case are obliged to discharge the debts for which they became securities, and such securities reserve the right of instituting an

action against the debtor should the latter be improved in circumstances. If two persons jointly borrow a sum of money from another and bind themselves generally for the amount borrowed, the lender in that case may demand the payment of the amount so lent from such a debtor as he may happen to see first, provided that the following expressions are inserted in the *a'lai*, or bond, namely, *Munninran munirukka*. which signifies, " He who is present or before me must pay the debt "; the consequence whereof then is that the debtor who comes first before the creditor, when he intends to demand the money, must pay the whole debt; but such a debtor who pays the whole debt has a right to demand the payment of half the amount paid by him from his fellow-debtor wherever he may find him.

WIFE OR CHILDREN HOW FAR LIABLE FOR HUSBAND'S DEBTS

3. When a man has contracted debts in his lifetime without the knowledge either of his wife, child, or children, and happens to depart this life before he has discharged the same, his wife, child, or children, are obliged to pay such debts, provided the same be duly proved.

When husband and wife jointly cause a piece of land or a garden to be registered as a pawn for a sum of money borrowed by them, and do not deliver over such land or garden to the creditor, but keep the same in their own possession, and in consequence thereof give them afterwards to any of their daughters as a dowry without specifying in the deed of gift that such a piece of land or garden has been mortgaged to another—if the debtors in the supposed case happen to depart this life without discharging a debt of the above nature, yet leaving behind some other goods—their creditors of the above description, who have neglected to prevent such mortgaged lands or garden from being given as a dowry, have a right to seize such other goods as might have been left behind by the debtors; and the son or sons of such debtors are responsible for such debts, provided that the creditors (if such son or sons are unable to discharge the debt) do wait until they are in better circumstances.

• Section 3 of Part VII, and Part VIII are omitted.

INTEREST NOT TO EXCEED THE PRINCIPAL

4. When a person lends money upon interest and suffers the interest to exceed the principal, the debtor is not obliged to pay the interest exceeding such principal.

OF LOANS OF PADDY

5. When a person lends money OH condition to receive paddy on account of interest, he loses the interest when the harvest fails; and in the event of a bad harvest the interest is to be calculated and paid according to the profits of that harvest.

When any person is in want of paddy either as seed corn or for any other purpose, and borrows paddy to pay interest in kind, the borrower must stipulate the quantity which he agrees to pay, because it is not known what quantity is customary to be paid on such occasions, on which account the creditors take from two to five *parais* upon a quantity of ten *parais* of paddy ; and the mode to be observed in paying paddy on account of interest is that just stated in the event of a bad harvest or of no harvest having taken place. In case the debtor has had a good harvest every year during the time that he keeps the borrowed money, and the creditor has neglected to come and demand his interest upon the harvest, the debtor is not obliged in that case to pay anything on account of interest exceeding the principal, but it is sufficient if he pays double the principal sum borrowed by him.

OF EXCHANGES OF PADDY. &C.

6. In case any person wishes to exchange grain, paddy, *chdmi*, *kurakkan*, *kollu*. * *rice*, and *cadjan* must be exchanged for an equal quantity, because they bear the same price; but any person wishing to exchange paddy for *varaku* must give one and a *half parai* of *varaku* for one *parai* of paddy.

* An old Tamil version has, " Peas and rice are exchanged for an equal quantity

WHAT PROPORTION OF PROFITS IS TO BE PAID WHERE ANY PERSON SOWS THE GROUNDS OF ANOTHER WITHOUT STIPULATING ANY FIXED PORTION OF THE PRODUCE

7. When any person sows the fields of another without a previous agreement what quantity the sower shall give from the harvest to the proprietor of the fields it is deemed sufficient if the sower pays to the proprietor the *taraivdram*, which signifies the -ground duty, and is calculated to be one-third part of the profits, except the tenth part, which is to be given to the proprietor previously. And when the sower has agreed to give a fixed quantity to the proprietor, and the crop happens to fail in the year for which the contract has been made. the sower need not pay to the proprietor the quantity agreed upon ; but in case the other inhabitants of the village (in which such a sower resides) have all had a good harvest, then the sower of the above description is obliged to pay such a quantity to the proprietor as was agreed upon by him, because in such an event the failure of the crop of the field sown by him is attributed to his laziness and negligence ; yet should it happen that he has had a tolerably good harvest and the other inhabitants of his village a bad one, then the proprietor of the ground must be satisfied with the quantity produced by the field, and may not claim *anything* more from the sower.

The above laws and customs of Jaffnapatam were composed by me in consequence of my experience obtained by my long residence and intercourse at that place. I have written the above laws and customs after a strict inquiry into the same by order of His Excellency the Governor and Doctor of Laws, CORNELIS JOAN SIMONS, and I hope my endeavours will satisfy His Excellency the Governor's intention ; in the expectation whereof I have the honour to be,

Honourable Sir,

Your Excellency's most obedient, humble
Servant,

(Signed) CLAAS ISAAKSZ.

Jaffnapatam; 30th January, 1707.

CHAPTER 96

TRUSTS

Ordinances AN ORDINANCE TO DEFINE AND AMEND THE LAW RELATING TO TRUSTS.
Nos. 9 of 1917,
4 of 1918,
1 of 1934,
Acts
Nos. 7 of 1968.
30 of 1971.

[16th April. 1918.]

CHAPTER 1

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Trusts Ordinance.

Application of English law. 2. All matters with reference to any trust, or with reference to any obligation in the nature of a trust arising or resulting by the implication or construction of law, for which no specific provision is made in this or any other enactment, shall be determined by the principles of equity for the time being in force in the High Court of Justice in England.

Interpretation. 3. In this Ordinance, unless the context or the subject-matter otherwise implies—

- (a) " trust " is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another person, or of another person and the owner, of such a character that, while the ownership is nominally vested in the owner, the right to the beneficial enjoyment of the property is vested or to be vested in such other person, or in such other person concurrently with the owner ;
(b) the person who reposes or declares the confidence is called the " author of the trust " ;
(c) the person who accepts the confidence is called the " trustee " ;
(d) the person for whose benefit the confidence is accepted is called the " beneficiary " ;
(e) the subject-matter of the trust is called " trust property " or " trust money " ;

- (f) the beneficial interest " or " interest " of the beneficiary is his right against the trustee as owner of the trust property ;
(g) the instrument, if any, by which the trust is declared is called the " instrument of trust " ;
(h) the expression " instrument of trust " includes a scheme settled under Chapter X of this Ordinance ;
(i) a breach of any duty imposed on a trustee, as such, by any law for the time being in force is called a " breach of trust " ;
(j) a person is said to have " notice " of a fact either when he actually knows that fact, or when, but for wilful abstention from inquiry or gross negligence, he would have known it, or when information of the fact is given to or obtained by any person whom the court may determine to have been his agent for the purpose of receiving or obtaining such information ;
(k) every person is a competent to contract " who is of the age of majority, or has otherwise acquired the status of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified by law from contracting ;
(l) a " married woman " is competent to contract :

Provided that in any case in which the consent, concurrence, acquiescence, or ratification of a beneficiary is referred to, the power of consent, concurrence, acquiescence, or ratification of a married woman who is a beneficiary

shall be subject to the same conditions and limitations as her power to contract with reference to the matter in question ;

(m) " court " means the District Court having jurisdiction in the matter in question, or a District Court upon which the Court of Appeal, on the application of any party interested, may confer jurisdiction for the purposes either of the trust generally or of the matter in question ;

(n) " notarially executed " means executed in the manner prescribed by section 2 of the Prevention of Frauds Ordinance, and any reference to " notarial execution " shall be deemed to include a reference to execution in accordance with the Deeds and Documents (Execution before Public Officers) Ordinance.

{h} A, while in insolvent circumstances, transfers property to B in trust for A during his life, and after his death to B. A is declared an insolvent. The trust for A is invalid as against his creditors.

5. (1) Subject to the provisions of section 107, no trust in relation to immovable property is valid unless declared by the last will of the author of the trust or of the trustee, or by a non-testamentary instrument in writing signed by the author of the trust or the trustee, and notarially executed.

Trust of immovable property.

(2) No trust in relation to movable property is valid unless declared by the last will of the author of the trust or of the trustee, or by a non-testamentary instrument in writing signed by the author of the trust or the trustee, or unless the ownership of the property is transferred to the trustee by delivery.

(3) These rules do not apply where they would operate so as to effectuate a fraud.

CHAPTER II

OF THE CREATION OF TRUSTS

lawful purpose.

4. (1) A trust may be created for any lawful purpose. The purpose of a trust is lawful, unless—

- (a) it is forbidden by law, or
(b) it is of such a nature that, if permitted, it would defeat the provisions of any law, or
(c) it is fraudulent, or
(d) it involves or implies injury to the person or property of another, or
(e) the court regards it as immoral: or opposed to public policy.

(2) Every trust of which the purpose is unlawful is void. And where a trust is created for two purposes, of which one is lawful and the other unlawful, and the two purposes cannot be separated, the whole trust is void.

Explanation.—In this section the expression " law " includes where the trust property is immovable and situate in a foreign country, the law of such country.

Illustrations

(a) A bequeaths property to B in trust to employ it in carrying on a smuggling business, and out of the profits thereof to support A's children. The trust is void.

6. Subject to the provisions of sections 5 and 107, a trust is created when the author of the trust indicates with reasonable certainty by any words or acts—

- (a) an intention on his part to create thereby a trust,
(b) the purpose of the trust,
(c) the beneficiary,
(d) the trust property, and

(unless the trust is declared by will or the author of the trust is himself to be the trustee) transfers the trust property to the trustee.

Illustrations

(a) A bequeaths certain property to B, * having the fullest confidence that he will dispose of it for the benefit of " C. This creates a trust so far as regards A and C.

(b) A bequeaths certain property to B," hoping he will continue it in the family ". This does not create a trust, as the beneficiary is not indicated with reasonable certainty.

(c) A bequeaths certain property to B, requesting him to distribute it amongst such members of C's family as B should think most deserving. This does not create a trust, for the beneficiaries are not indicated with reasonable certainty.

- (d) A bequeaths certain property to B, desiring him to divide the bulk of it among C's children. This does not create a trust, for the trust property is not indicated with sufficient certainty.
- (e) A bequeaths a shop and stock in trade to B, on condition that he pays A's debts and a legacy to C. This is a condition, not a trust, for A's creditors and C.

Who may create trusts.

7. A trust may be created-

- (a) by every person competent to contract ; and
- (b) with the permission of the court by or on behalf of a minor ;

but subject in each case to the law for the time being in force as to the circumstances and extent in and to which the author of the trust may dispose of the trust property.

Subject of trust.

8. The subject-matter of a trust must be property transferable to the beneficiary. It must not be a merely beneficial interest under a subsisting trust.

Who may be beneficiary.

9. (1) Every person capable of holding property may be a beneficiary.

Disclaimer by beneficiary.

(2) A proposed beneficiary may renounce his interest under the trust by disclaimer addressed to the trustee, or by setting up, with notice of the trust, a claim inconsistent therewith.

Who may be trustee.

10. (1) Every person capable of holding property may be a trustee ; but, where the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.

No one bound to accept trust.

(2) No one is bound to accept a trust.

Acceptance of trust.

(3) A trust is accepted by any words or acts of the trustee indicating with reasonable certainty such acceptance.

Disclaimer of trust.

(4) Instead of accepting a trust, the intended trustee may, within a reasonable period, disclaim it, and such disclaimer shall prevent the trust property from vesting in him.

(5) A disclaimer by one of two or more co-trustees vests the trust property in the other or others, and makes him or them sole trustee or trustees from the date of the creation of the trust.

Illustrations

- (a) A bequeaths certain property to B and C. his executors, as trustees for D. B and C prove A's will. This is in itself an acceptance of the trust, and B and C hold the property in trust for D.
- (b) A transfers certain property to B in trust to sell it and to pay out of the proceeds A's debts- B accepts the trust and sells the property. So far as regards B, a trust of the proceeds is created for A's creditors.
- (c) A bequeaths a lakh of rupees to B upon certain trusts and appoints him his executor. B severs the lakh from the general assets and appropriates it to the specific purpose. This is an acceptance of the trust.

CHAPTER III

OF THE DUTIES AND LIABILITIES OF TRUSTEES

11. (I) The trustee is bound to fulfil the Trustee to purpose of the trust, and to obey the execute trust. directions of the author of the trust given at the time of its creation, except as modified by the consent of all the beneficiaries being competent to contract,

(2) Where the beneficiary is incompetent to contract, his consent may, for the purposes of this section, be given by the court.

Explanation.—Unless a contrary intention be expressed, the purpose of a trust for the payment of debts shall be deemed to be—

- (a) to pay only the debts of the author of the trust existing and recoverable at the date of the instrument of trust, or, when such instrument is a will, at the date of his death, and
- (b) in the case of debts not bearing interest, to make such payment without interest.

Illustrations

- (a) A, a trustee, is simply authorized to sell certain land by public auction- He cannot sell the land by private contract.
- (b).A, a trustee of certain land for X, Y, and Z, is authorized to sell the land to B for a specified sum. X, Y, and Z, being competent to contract, consent that A may sell the land to C for a less sum. A may sell the land accordingly.
- (c) A, a trustee for B and her children, is directed by the author of the trust to lend, on B's request, trust property to B's husband C, on the security of his bond. C becomes insolvent, and B requests A to make the loan- A may refuse to make it.

Trustee to inform himself of state of trust property.

12. A trustee is bound to acquaint himself, as soon as possible, with the nature and circumstances of the trust property ; to obtain, where necessary, a transfer of the trust property to himself; and (subject to the provisions of the instrument of trust) to get in trust moneys invested on insufficient or hazardous security.

Illustrations

- (a) The trust property is a debt outstanding on personal security. The instrument of trust gives the trustee no discretionary power to leave the debt so outstanding. The trustee's duty is to recover the debt without unnecessary delay.
- (b) The trust property is money in the hands of one or two co-trustees. No discretionary power is given by the instrument of trust. The other co-trustee must not allow the former to retain the money for a longer period than the circumstances of the case required.

Trustee to protect title to trust property.

13. A trustee is bound to maintain and defend all such suits, and (subject to the provisions of the instrument of trust) to take such other steps as, regard being had to the nature and amount or value of the trust property, may be reasonably requisite for the preservation of the trust property and the assertion or protection of the title thereto.

Illustration

The trust property is immovable property, which has been given to the author of the trust by an unregistered instrument. The trustee's duty is to cause the instrument to be registered.

Trustee not to set up title adverse to beneficiary.

14. The trustee must not for himself or another set up or aid any title to the trust property adverse to the interest of the beneficiary.

Care required from trustee.

15. A trustee is bound, subject to the provisions of the instrument of trust, to deal with the trust property as carefully as a man of ordinary prudence would deal with such property if it were his own ; and, in the absence of a contract to the contrary, a trustee so dealing is not responsible for the loss, destruction, or deterioration of the trust property.

Illustrations

- (a) A, living in Colombo, is a trustee for B, living in London. A remits trust funds to B by bills drawn by a person of undoubted credit in favour of the trustee as such and payable at London. The bills are dishonoured. A is not bound to make good the loss,

(b) A, a trustee of leasehold property, directs the tenant to pay the rents, on account of the trust to a banker, B, then in credit. The rents are accordingly paid to B, and A leaves the money with B only till wanted. Before the money is drawn out, B becomes insolvent. A, having had no reason to believe that B was in insolvent circumstances, is not bound to make good the loss.

(c) A, a trustee of two debts for B, releases one and compounds the other, in good faith, and reasonably believing that it is for B's interest to do so. A is not bound to make good any loss caused thereby to B.

(d) A, a trustee directed to sell the trust property by auction, sells the same, but does not advertise the sale, and otherwise fails in reasonable diligence in inviting competition. A is bound to make good the loss caused thereby to the beneficiary.

(e) A, a trustee for B, in execution of his trust, sells the trust property, but from want of due diligence on his part fails to receive part of the purchase money. A is bound to make good the loss thereby caused to B.

(f) A, a trustee for B of a policy of insurance, has funds in hand for payment of the premiums. A neglects to pay the premiums, and the policy is consequently forfeited. A is bound to make good the loss to B.

(g*) A bequeaths certain moneys to B and C as trustees, and authorizes them to continue the trust moneys upon the personal security of a certain firm in which A had himself invested them. A dies, and a change takes place in the firm. B and C must not permit the moneys to remain upon the personal security of the new firm.

(h) A, a trustee for B, allows the trust to be executed solely by his co-trustee C, C misapplies the trust property. A is personally answerable for the loss resulting to B.

16. Where the trust is created for the benefit of several persons in succession, and the trust property is of a wasting nature or a future or reversionary interest, the trustee is bound, unless an intention to the contrary may be inferred from the instrument of trust, or unless the court otherwise directs, to convert the property into property of a permanent and immediately profitable character.

17. (I) Where there are more beneficiaries than one, the trustee is bound to be impartial, and must not execute the trust for the advantage of one at the expense of another.

(2) Where the trustee has a discretionary power, nothing in this section shall be deemed to authorize the court to control the exercise reasonably and in good faith of such discretion..

Illustration

A, a trustee for B, C, and D, is empowered to choose between several specified modes of investing the trust property. A in good faith chooses one of these modes. The court will not interfere, although the result of the choice may be to vary the relative rights of B, C, and D.

Trustees to prevent waste,

18. Where the trust is created for the benefit of several persons in succession, and one of them is in possession of the trust property, if he commits, or threatens to commit, any act which is destructive or permanently injurious thereto, the trustee is bound to take measures to prevent such act.

Accounts and information.

19. A trustee is bound—

- (a) to keep clear and accurate accounts of the trust property, and
- (b) at all reasonable times, at the request of the beneficiary, to furnish him with full and accurate information *as* to the amount and state of the trust property.

Investment of trust money,

20. Where the trust property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee is bound (subject to any direction contained in the instrument of trust) to invest the money on the following securities, and on no others :—

- (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) in promissory notes, debentures, stock or other securities issued by a, Government corporation, institution or agency and guaranteed by the Government of Sri Lanka ;

(d) on any other security expressly authorized by the instrument of trust or by any rule which the Minister may from time to time prescribe in that behalf.

21. Nothing in section 20 shall apply to investments made before the commencement of this Ordinance, or shall be deemed to preclude a deposit of trust money in a Government Savings Bank or in the National Savings Bank.

Saving as to existing investments and investments in Government Savings Bank or National Savings Bank. [§2.7 of 1968.] [§89,30 of 1971.]

22. Where a trustee directed to sell within a specified time extends such time, the burden of proving, as between himself and the beneficiary, that the latter is not prejudiced by the extension lies upon the trustee, unless the extension has been authorized by the court.

Sale by trustee directed to sell within specified time.

Illustration

A bequeaths property to B, directing him with all convenient speed and within five years to sell it, and apply the proceeds for the benefit of C. In the exercise of reasonable discretion, B postpones the sale for six years. The sale is not thereby rendered invalid, but C, alleging that he has been injured by the postponement, institutes a suit against B to obtain compensation. In such suit the burden of proving that C has not been injured lies on B.

23. (1) Where the trustee commits a breach of trust, he is liable to make good the loss which the trust property or the beneficiary has thereby sustained, unless the beneficiary has by fraud induced the trustee to commit the breach, or the beneficiary, being competent to contract, has himself, without duress or undue influence having been brought to bear on him, concurred in the breach, or subsequently acquiesced therein with full knowledge of the facts of the case and of his rights as against the trustee.

Liability for breach of trust-

(2) A trustee committing a breach of trust is not liable to pay interest except in the following cases :—

- (a) where he has actually received interest ;
- (b) where the breach consists in unreasonable delay in paying trust money to the beneficiary ;
- (c) where the trustee ought to have received interest, but has not done so :

- (d) where he may be fairly presumed to have received interest;
- (e) where the breach consists in failure to invest trust money and to accumulate the interest or dividend thereon, he is liable to account for compound interest (with half-yearly rests) at the same rate ;
- (f) where the breach consists in the employment of trust property or the proceeds thereof in trade or business, he is liable to account, at the option of the beneficiary, either for compound interest (with half-yearly rests) at the same rate or for the net profits made by such employment.

(3) He is liable in case (a) to account for the interest actually received, and in cases (b), (c), and (d) to account for simple interest at the rate of six *per centum* per annum, unless the court otherwise directs.

Illustrations

- (a) A trustee improperly leaves trust property outstanding, and it is consequently lost ; he is liable to make good the property lost, but he is not liable to pay interest thereon.
- (b) A bequeaths a house to B in trust to sell it and pay the proceeds to C. B neglects to sell the house for a great length of time, whereby the house is deteriorated and its market price falls. B is answerable to C for the loss.
- (c) A trustee is guilty of unreasonable delay in investing trust money in accordance with section 20, or in paying it to the beneficiary. The trustee is liable to pay interest thereon for the period of the delay;
- (d) The duty of the trustee is to invest trust money in any of the securities mentioned in section 20. Instead of so doing, he retains the money in his hands. He is liable, at the option of the beneficiary, to be charged either with the amount of the principal money and interest, or with the amount of such securities as he might have purchased with the trust money when the investment should have been made, and the intermediate dividends and interest thereon.
- (e) The instrument of trust directs the trustee to invest trust money either in any such securities or on mortgage of immovable property. The trustee does neither. He is liable for the principal money and interest.
- (f) The instrument of trust directs the trustee to invest trust money in any of such securities and to accumulate the dividends thereon. The trustee disregards the direction. He is liable at the option of the beneficiary, to be charged either with the amount of the principal money and

compound interest, or with the amount of such securities as he might have purchased with the trust money when the investment should have been made, together with the amount of the accumulation which would have arisen from a proper investment of the intermediate dividends.

- (g) Trust property is invested in one of the securities mentioned in section 20, clause (a), (c), or ((d). The trustee sells such security for some purpose not authorized by the terms of the instrument of trust. He is liable, at the option of the beneficiary, either to replace the security with the intermediate dividends and interest thereon, or to account for the proceeds of the sale with interest thereon.
- (h) The trust property consists of land. The trustee sells the land to a purchaser for a consideration without notice of the trust. The trustee is liable, at the option of the beneficiary, to purchase other land of equal value to be settled upon the like trust, or to be charged with the proceeds of the sale with interest.

24. A trustee who is liable for a loss occasioned by a breach of trust in respect of one portion of the trust property cannot set off against his liability a gain which has accrued to another portion of the trust property through another and distinct breach of trust. No set-off allowed to trustee

25. Where a trustee succeeds another, he is not, as such, liable for the acts or defaults of his predecessor. Non-liability for predecessor's default.

26. (1) Subject to the provisions of sections 13 and 15, one trustee is not, as such, liable for a breach of trust committed by his co-trustee : Non-liability for co-trustee's default.

Provided that, in the absence of an express declaration to the contrary in the instrument of trust, a trustee is so liable—

- (a) where he has delivered trust property to his co-trustee without seeing to its proper application ;
- (b) where he allows his co-trustee to receive trust property and fails to make due inquiry as to the co-trustee's dealings therewith, or allows him to retain it longer than the circumstances of the case reasonably require ;
- (c) where he becomes aware of a breach of trust committed or intended by his co-trustee, and either actively conceals it, or does not within a reasonable time take proper steps to protect the beneficiary's interest.

Joining in receipt for conformity.

(2) A co-trustee who joins in signing a receipt for trust property, if he proves, or if it otherwise appears that he has not received the same, is not answerable, by reason of such signature only, for loss or misapplication of the property by his co-trustee.

Illustration

A bequeaths certain property to B and C, and directs them to sell it and invest the proceeds for the benefit of D. B and C accordingly sell the property, and the purchase money is received by B and retained in his hands. C pays no attention to the matter for two years, and then calls on B to make the investment. B is unable to do so. becomes insolvent, and the purchase money is lost, C may be compelled to make good the amount.

Several liability of co-trustees.

27. (1) Where co-trustees jointly commit a breach of trust, or where one of them by his neglect enables the other to commit a breach of trust, each is liable to the beneficiary for the whole of the loss occasioned by such breach.

Contribution as between co-trustees.

But as between the trustees themselves, if one be less guilty than another and has had to refund the loss, the former may compel the latter, or his legal representative to the extent of the assets he has received, to make good such loss, and if all be equally guilty, any one or more of the trustees who has had to refund the loss may compel the others to contribute.

(2) Nothing in this section shall be deemed to authorize a trustee who has been guilty of fraud to institute a suit to compel contribution.

Non-liability of trustee paying without notice of transfer by beneficiary.

28. When any beneficiary's interest becomes vested in another person, and the trustee, not having notice of the vesting, pays or delivers trust property to the person who would have been entitled thereto in the absence of such vesting, the trustee is not liable for the property so paid or delivered.

Liability of trustee where beneficiary's interest is forfeited to Government.

29. When the beneficiary's interest is forfeited or awarded by legal adjudication to Government, the trustee is bound to hold the trust property to the extent of such interest for the benefit of such person in such manner as the Government may direct in this behalf.

30. Subject to the provisions of the instrument of trust and of sections 23 and 26, trustees shall be respectively chargeable only for such moneys, stocks, funds, and securities as they respectively actually receive, and shall not be answerable the one for the other of them, nor for any banker, broker, or other person in whose hands any trust property may be placed, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor otherwise for involuntary losses.

Indemnity of trustees.

31. If it appears to the court that a trustee is or may be personally liable for any breach of trust, whether the transaction alleged to be a breach of trust occurred before or after the commencement of this Ordinance, but has acted honestly and reasonably and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed such breach, then the court may relieve the trustee either wholly or partly from personal liability for the same.

Relief of trustee from consequences of breach of trust.

CHAPTER IV

OF THE RIGHTS AND POWERS OF TRUSTEES

32. A trustee is entitled to have in his possession the instrument of trust and all the documents of title (if any) relating solely to the trust property.

Right to title deed-

33. (1) Every trustee may reimburse himself, or pay or discharge out of the trust property, all expenses properly incurred in or about the execution of the trust, or the realization, reservation, or benefit of the trust property, or the protection or support of the beneficiary.

Right to reimbursement of expenses

(2) If he pays such expenses out of his own pocket, he has a first charge upon the trust property for such expenses and interest thereon ; but such charge (unless the expenses have been incurred with the sanction of the court) shall be enforced only by prohibiting any disposition of the trust property without previous payment of such expenses and interest.

(3) If the trust property fail, the trustee is entitled to recover from the beneficiary personally on whose behalf he acted, and at whose request, expressed or implied, he made the payment, the amount of such expenses.

Right to be recouped for erroneous overpayment.

(4) Where a trustee has by mistake made an overpayment to the beneficiary, he may reimburse the trust property out of the beneficiary's interest. If such interest fail, the trustee is entitled to recover from the beneficiary personally the amount of such overpayment.

trust property examined and settled ; and, where nothing is due to the beneficiary under the trust, to an acknowledgment in writing to that effect.

Right to indemnity from gainer by breach of trust.

34. (1) A person other than a trustee, or a transferee in good faith for consideration who has gained an advantage from a breach of trust must indemnify the trustee to the extent of the amount actually received by such person under the breach, and where such person is a beneficiary, the trustee has a charge on his interest for such amount.

37. In addition to the powers expressly conferred by this Ordinance and by the instrument of trust, and subject to the restrictions, if any, contained in such instrument and to the provisions of section 17, a trustee may do all acts which are reasonable and proper for the realization, protection, or benefit of the trust property, and for the protection or support of a beneficiary who is not competent to contract.

(2) Nothing in this section shall be deemed to entitle a trustee to be indemnified who has in committing the breach of trust, been guilty of fraud.

38. (1) Except with the permission of the court, and subject to any special statutory provision in that behalf, no trustee shall lease trust property for a term expiring at a date later than the end of ten years from the date of the execution of the lease, or if the date of the termination of the trust is ascertained, for a term expiring at a date later than the date of such termination, nor without reserving the best yearly rent that can be reasonably obtained.

Illustration

The trustee of a family trust bona fide pays over a certain part of the trust moneys to a member of the family contrary to the terms of the instrument of trust, and the court orders the trustee to replace the money. He is entitled to be indemnified by the person to whom he has paid it.

Right to apply to court for opinion in management of trust property.

35. (1) Any trustee may, without instituting a suit, apply by petition to the court for its opinion, advice, or direction on any present questions respecting the management or administration of the trust property other than questions of detail, difficulty, or importance not proper, in the opinion of the court, for summary disposal.

(2) Any lease executed without the permission of the court for a term exceeding the limits authorized by this section shall be void to the extent to which it so exceeds the said limits.

(2) A copy of such petition shall be served upon, and the hearing thereof may be attended by, such of the persons interested in the application as the court thinks fit.

39. Where the trustee is empowered to sell any trust property, he may sell the same, subject to prior charges or not, and either together or in lots, by public auction or private contract, and either at one time or at several times, unless the instrument of trust otherwise directs.

(3) The trustee stating in good faith the facts in such petition, and acting upon the opinion, advice, or direction given by the court, shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee in the subject-matter of the application.

40. (1) The trustee making any such sale may insert such reasonable stipulations either as to title or evidence of title, or terms of payment, or otherwise, in any conditions of sale or contract for sale, as he thinks fit ; and may also buy in the property or any part thereof at any sale by auction, and rescind

Right to settlement of accounts.

(4) The costs of every application under this section shall be in the discretion of the court to which it is made.

36. When the duties of a trustee, as such, are completed, he is entitled to have the accounts of his administration of the

Power to buy in and re-sell. or vary any contract for sale, and re-sell the property so bought in, or as to which the contract is' so rescinded, without being responsible to the beneficiary for any loss occasioned thereby :

Provided he shall have acted in good faith and without negligence,

Time allowed for selling trust property.

(2) Where a trustee is directed to sell trust property or to invest trust money in the purchase of property, he may exercise a reasonable discretion as to the time of effecting the sale or purchase.

Illustrations

(a) A bequeaths property to B, directing him to sell it with all convenient speed and pay the proceeds to C. This does not render an immediate sale imperative.

(b) A bequeaths property to B, directing him to sell it at such time and in such manner as he shall think fit and invest the proceeds for the benefit of C. This does not authorize B, as between him and C, to postpone the sale to an indefinite period.

Power to convey.

41. For the purpose of completing any such sale, the trustee shall have power to convey or otherwise dispose of the property sold in such manner as may be necessary.

Power to vary investments.

42. (1) A trustee may, at his discretion, call in any trust property invested in any security and invest the same on any of the securities mentioned or referred to in section 20, and from time to time vary any such investments for others of the same nature.

Power of court to authorize sale, exchange, &c., of trust property.

(2) When any immovable property is the subject-matter of any trust, the court may authorize any sale, exchange, mortgage, or other disposition of the property, which it considers to be in the interests of the objects of the trust.

(3) Nothing contained in subsection" (2) shall be deemed to derogate from the rights of a trustee under subsection (1).

Power to apply property of minors, &c., for their maintenance.

43. (1) Where any property is held by a trustee in trust for a minor, either for life or for any greater interest, and whether absolutely or contingently on his attaining the age of majority, or on the occurrence of any event before his attaining that age, the trustee may at his sole discretion pay to the minor's parent or guardian, if any, or otherwise apply for or towards the minor's maintenance, education, or benefit, the income of the property, or any part thereof, whether there is any other fund applicable to the same purpose, or any person bound by law to provide for the minor's maintenance or education or not.

(2) The trustee shall accumulate all the residue of the income in the way of compound interest by investing the same

and the resulting income thereof from time to time in securities in which he is by the instrument of trust, if any, or by section 20 of this Ordinance, authorized to invest trust money, and shall hold the accumulations for the benefit of the minor ; but so that the trustee may at any time, if he thinks fit, apply the accumulations, or any part thereof, as if the same were income arising in the then current year.

(3) This section applies only if and as far as contrary intention is not expressed in the instrument of trust, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(4) Where the income of the trust property is insufficient for the minor's maintenance, or education, or marriage, or advancement in life, the trustee may, with the permission of the court, and not otherwise, apply the whole or any part of such property for or towards such maintenance, education, marriage, or advancement.

44. Any trustees or trustee may give a receipt in writing for any money, securities, or other movable property payable, transferable, or deliverable to them or him by reason, or in the exercise, of any trust or power ; and, in the absence of fraud, such receipt shall discharge the person paying, transferring, or delivering the same therefrom, and from seeing to the application thereof, or being accountable for any loss or misapplication thereof.

Power to give receipts.

45. (1) Two or more trustees acting together, or if there is only one trustee of the trust, such trustee may, if and as they or he shall think fit—

Power to compound, &c.

(a) accept any composition or any security for any debt or for any property claimed ;

(b) allow any time for payment of any debt ;

(c) compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the trust ; and

(d) for any of those purposes enter into, give, execute, and do such agreements, instruments of

composition or arrangement, releases, and other things as to them or him seem expedient, without being responsible for any loss occasioned by any act or thing so done by them or him in good faith and without negligence.

(2) The powers conferred by subsection (1) on two or more trustees acting together may be exercised by a sole acting trustee, when by the instrument of trust, if any, a sole trustee is authorized to execute the trusts and powers thereof.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument of trust if any, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(4) Nothing in this section shall be deemed to affect the application of the law relating to the property of minors.

Power to several trustees of whom one disclaims or dies.

46. When an authority to deal with the trust property is given to several trustees and one of them disclaims or dies, the authority may be exercised by the continuing trustees, unless from the terms of the instrument of trust it is apparent that the authority is to be exercised by a number in excess of the number of the remaining trustees.

Suspension of trustee's power by decree.

47. Where a decree has been made in a suit for the execution of a trust, the trustee must not exercise any of his powers except in conformity with such decree, or with the sanction of the court by which the decree has been made, or, where an appeal against the decree is pending, of the Court of Appeal.

CHAPTER V

OF THE DISABILITIES OF TRUSTEES

Trustee cannot renounce after acceptance.

48. A trustee who has accepted the trust cannot afterwards renounce it, except—

- (a) with the permission of the court ; or
(b) if the beneficiary is competent to contract, with his consent; or
(c) by virtue of a special power in the instrument of trust.

Trustee cannot delegate.

49. A trustee cannot delegate his office or any of his duties either to a co-trustee or to a stranger, unless—

- (a) the instrument of trust so provides ; or
(b) the delegation is in the regular course of business ; or
(c) the delegation is necessary ; or
(d) the beneficiary, being competent to contract, consents to the delegation ; or
(e) the court so directs,

Explanation.—The appointment of an attorney or agent or proxy to do an act merely ministerial and involving no independent discretion is not a delegation within the meaning of this section.

Illustrations

- (a) A bequeaths certain property to B and C on certain trusts to be executed by them or the survivor of them or the assigns of such survivor. B dies. C may bequeath the trust property to D and E upon the trusts of A's will.
(b) A is a trustee of certain property with power to sell the same. A may employ an auctioneer to effect the sale.
(c) A bequeaths to B fifty houses let at monthly rents in trust to collect the rents and pay them to C. B may employ a proper person to collect these rents.

50. When there are more trustees than one, all must join in the execution of the trust, except where the instrument of trust otherwise provides, or except when on good cause shown the court otherwise directs.

Co-trustees cannot act singly.

51. Where a discretionary power conferred on a trustee is not exercised reasonably and in good faith, such power may be controlled by the court.

Control of discretionary power.

52. (1) In the absence of express directions to the contrary contained in the instrument of trust, or of a contract to the contrary entered into with the beneficiary, an order of court, or express statutory provision in that behalf, a trustee has no right to remuneration for his trouble, skill, and loss of time in executing the trust.

Trustee may not charge for services

(2) Nothing in this section shall be deemed to prejudice the right of any resident trustee actually managing the daily administration of any religious foundation, in respect of which the remuneration of the trustee shall not have been settled under section 108, to such remuneration as has been in practice received :

Provided that such remuneration shall in no case exceed ten per centum of the gross income of the foundation.

Trustee may not use trust property for his own profit.

53. A trustee may not use or deal with the trust property for his own profit or for any other purpose unconnected with the trust.

the gross amount to him. A on attaining majority may, as the person exclusively interested in the trust property, require the trustees to transfer it immediately to him.

Trustee for sale or his agent may not buy.

54. No trustee whose duty it is to sell trust property, and no agent employed by such trustee for the purpose of the sale may, directly or indirectly, buy the same or any interest therein on his own account or as agent for a third person.

(b) A bequeaths Rs. 10,000 to trustees upon trust to purchase an annuity for B. who has attained his majority and is otherwise competent to contract. B may claim the Rs. 10,000.

(c) A transfers certain property to B and directs him to sell or invest it for the benefit of C, who is competent to contract, C may elect to take the property in its original character.

Trustee may not buy beneficiary's interest without permission.

55. No trustee, and no person who has recently ceased to be a trustee, may, without the permission of the court, buy or become mortgagee or lessee of the trust property or any part thereof ; and such permission shall not be given unless the proposed purchase, mortgage, or lease is manifestly for the advantage of the beneficiary,

59. The beneficiary has a right, as against the trustee and all persons claiming under him with notice of the trust, to inspect and take copies of the instrument of trust, the documents of title relating solely to the trust property, the accounts of the trust property and the vouchers (if any) by which they are supported, and the cases submitted and opinions taken by the trustee for his guidance in the discharge of his duty.

Right to inspect and take copies of instrument of trust, accounts, &c.

Trustee for purchase.

And no trustee whose duty it is to buy or to obtain a mortgage or lease of particular property for 'the beneficiary may buy it or any part thereof, or obtain a mortgage or lease of it or any part thereof for himself.

60. The beneficiary, if competent to contract, may transfer his interest, but subject to the law for the time being in force as to the circumstances and extent in and to which he may dispose of such interest.

Right to transfer beneficial interest.

Co-trustees may not lend to one of themselves.

56. A trustee or co-trustee whose duty it is to invest trust money on mortgage or personal security must not invest it on a mortgage by, or on the personal security of, himself or one of his co-trustees.

61. When no trustees are appointed, or all the trustees die, disclaim, or are discharged, or where for any other reason the execution of a trust by the trustee is or becomes impracticable, the beneficiary may institute a suit for the execution of the trust, and the trust shall, so far as may be possible, be executed by the court until the appointment of a trustee or new trustee, or until the execution of the trust becomes practicable.

Right to sue for execution of trust.

CHAPTER VI

OF THE RIGHTS AND LIABILITIES OF THE BENEFICIARY

Right to rents and profits.

57. The beneficiary has, subject to the provisions of the instrument of trust, a right to the rents and profits of the trust property.

Right to specific execution.

58. The beneficiary is entitled to have the intention of the author of the trust specifically executed to the extent of the beneficiary's interest.

62. Subject to the provisions of the instrument of trust, the beneficiary has a right to require that the trust property shall be properly protected and held and administered by proper persons and by a proper number of such persons. ,

Right to proper trustees.

Right to transfer of possession.

And, where there is only one beneficiary and he is competent to contract, or where there are several beneficiaries and they are competent to contract, and all of one mind, he or they may require the trustee to transfer the trust property to him or them, or to such person as he or they may direct.

Explanation 1.—The following are not proper persons within the meaning of this section:—
* An alien enemy ; a person having an interest inconsistent with that of the beneficiary : a person in insolvent circumstances ; a minor.

Illustrations

(a) Certain Government securities are given to trustees upon trust to accumulate the interest until A attains majority, and then to transfer

Explanation 2.—When the administration of the trust involves the receipt and custody of money, the number of trustees should be two at least.

Illustrations

- (a) A. one of several beneficiaries, proves that B. the trustee, has improperly disposed of part of the trust property. or that the property is in danger from B's being in insolvent circumstances. or that he is incapacitated from acting as trustee. A may obtain a receiver of the trust property.
- (b) A bequeaths certain jewels to B in trust for C. B dies during A's lifetime ; then A dies. C is entitled to have the property conveyed to A trustee for him.
- (c*) A conveys certain property to four trustee.- in trust for B. Three of the trustees die. B may institute a suit to have three new trustees appointed in the place of the deceased trustees,
- (d) A conveys certain property to three trustees in trust for B. All the trustees disclaim. B may institute a suit to have three trustees appointed in place . of the trustees so disclaiming.
- (e) A. a trustee for B. refuses to act. or is declared an insolvent, or compounds with his creditors, or suffers a co-trustee to commit a breach of trust. B may institute a suit to have A removed and a new trustee appointed in his room.

63. The beneficiary has a right to require that his trustee shall be compelled to perform any particular act of his duty as such, and restrained from committing any contemplated or probable breach of trust.

Right to compel to perform any act of duty

Illustrations

- (a) A contracts with B to pay him monthly Rs. 100 for the benefit of C. B writes and signs a letter declaring that he will hold in trust for C the money so to be paid, A fails to pay the money in accordance with his contract- C may compel B on a proper indemnity to allow C to sue on the contract in B's name.
- (b) A is trustee of certain land. with a power to sell the same and pay the proceeds to B and C equally. A is about to make an improvident sale of the land. B may sue on behalf of himself and C for an injunction to restrain A from making the sale.

64. (1) Where a trustee has wrongfully bought trust property, the beneficiary has a right to have the property declared subject to the trust, or re-transferred by the trustee if it remains in his hands unsold, or, if it has been bought from him by any person with notice of the trust, by such person. But in such case the beneficiary must repay the purchase money paid by the trustee, with interest and such other expenses (if any) as he has properly incurred in the preservation of the property ; and the trustee or purchaser must—

Wrongful purchase by trustee.

- (a) account for the net profits of the property,
- (b) be charged with an occupation rent if he has been in actual possession of the property, and
- (c) allow the beneficiary to deduct a proportionate part of the purchase money if the property has been deteriorated by the acts or omissions of the trustee or purchaser.

(2) Nothing in this section—

- (a) impairs the rights of lessees and others who, before the institution of a suit to have the property declared subject to the trust or re-transferred, have contracted in good faith with the trustee or purchaser ; or
- (b) entitles the beneficiary to have the property declared subject to the trust or re-transferred where he, being competent to contract, has himself, without duress or undue influence having been brought to bear on him, ratified the sale to the trustee with full knowledge of the facts of the case and of his rights as against the trustee.

65. (1) Where trust property comes into the hands of a third person inconsistently with the trust, the beneficiary may institute a suit for a declaration that the property is comprised in the trust.

Following trust properly into the hands of third persons - into that into which it has been converted.

(2) Where the trustee has disposed of trust property, and the money or other property which he has received therefor can be traced in his hands or the hands of his legal representative or legatee, the beneficiary has, in respect thereof, rights as nearly as may be the same as his rights in respect of the original trust property.

Illustrations

- (a) A. a trustee for B of Rs. 10,000 wrongfully invests the Rs. 10,000 in the purchase of certain land. B is entitled to the land.
- (b) A. a trustee, wrongfully purchases land in his own name. partly with his own money, partly with money subject to a trust for B. B is entitled to a charge on the land for the amount of the trust money so misemployed,

66. (1) Nothing in section 65 entitles the beneficiary to any right in respect of property in the hands of—

Saving of rights of certain transferees.

(a) a transferee in good faith for consideration without having notice of the trust, either when the purchase money was paid, or when the conveyance was executed ; or

(b) ii transferee for consideration from such a transferee.

(2) A judgment-creditor of the trustee attaching and purchasing trust property is not a transferee for consideration within the meaning of this section.

(3) Nothing in section 65 applies to money or currency notes in the hands of a bona fide holder to whom they have passed in circulation, or to negotiable instruments in the hands of a bona fide holder for value, or shall be deemed to affect sections 22 and 23 of the Sale of Goods Ordinance, or the rights of any holder in good faith for consideration of any document of title which by law passes the ownership of goods to which it relates by endorsement or delivery, or the liability of a person to whom a debt or charge is transferred, or the right of a person who holds property under a title declared indefeasible by statute or of his successor in title.

Acquisition by trustee of trust property wrongfully converted-

67. Where a trustee wrongfully sells or otherwise transfers trust property and afterwards himself becomes the owner of the property, the property again becomes subject to the trust, notwithstanding any want of notice on the part of intervening transferees in good faith for consideration.

Right in case of blended property.

68. Where the trustee wrongfully mingles the trust property with his own, the beneficiary is entitled to a charge on the whole fund for the amount due to him.

Wrongful employment by partner trustee of trust property for partnership purposes.

69. If a partner, being a trustee, wrongfully employs trust property in the business or on the account of the partnership, no other partner is liable therefor in his personal capacity to the beneficiaries unless he had notice of the breach of trust. The partners having such notice are jointly and severally liable for the breach of trust.

Illustrations

(a) A and B are partners. A dies, having bequeathed all his property to B in trust for Z, and appointed B his sole executor. B, instead of winding up the affairs of the partnership,

retains all the assets in the business. 1 may compel him, as partner, to account for so much of the profits as are derived from A's share of the capital. B is also answerable to Z for the improper employment of A's assets.

(A) A, a trader, bequeaths his property to B in trust for C, appoints B his sole executor, and dies. B enters into partnership with X and Y in the same trade, and employs A's assets in the partnership business. B gives an indemnity to X and Y against the claims of C. Here X and Y are jointly liable with B to C as having knowingly become parties to the breach of trust committed by B.

70. Where one of several beneficiaries being competent to contract— Liability of beneficiary joining on breach of trust.

(a) joins in committing a breach of trust ; or

(b) knowingly obtains any advantage therefrom without the consent of the other beneficiaries ; or

(c) becomes aware of a breach of trust committed or intended to be committed, and either actually conceals it, or does not within a reasonable time take proper steps to protect the interests of the other beneficiaries ; or

(d) has deceived the trustee and thereby induced him to commit a breach of trust,

the other beneficiaries are entitled to have all his beneficial interest impounded as against him and all who claim under him (otherwise than as transferees for consideration without notice of the breach) until the loss caused by the breach has been compensated.

71. Every person to whom a beneficiary transfers his interests has the rights, and is subject to the liabilities, of the beneficiary in respect of such interest at the date of the transfer. Rights and liabilities of beneficiary's transferee.

CHAPTER VII

. OF VACATING THE OFFICE OF TRUSTEE

72. The office of a trustee is vacated by his death or by his discharge from his office. Office how vacated.

73. A trustee may be discharged from his office only as follows :— Discharge of trustee.

- (a) by the extinction of the trust ;
- (b) by the completion of his duties under the trust ;
- (c) by such means as may be prescribed by the instrument of trust or by any scheme under this Ordinance ;
- (d) by appointment under this Ordinance of a new trustee in his place ;
- (e) by consent of himself and the beneficiary, or, where there are more beneficiaries than one, by the consent of all the beneficiaries being competent to contract ; or
- (f) by the court.

consent of the court) the retiring trustees, if they all retire simultaneously, or (with the like consent) the last retiring trustee.

(2) Every such appointment shall be by writing under the hand of the person making it, and shall be notarially executed.

(3) Every instrument by which any such appointment is made, in so far as it affects immovable property, shall contain the particulars required by section 13 of the Registration of Documents Ordinance and shall be deemed to be an instrument affecting land for the purposes of the said Ordinance :

Provided that no deed of appointment of a trustee of any charitable trust shall be deemed to be invalidated by reason of the fact that it does not contain the said particulars, or shall be liable to be defeated by the registration of any subsequent deed, order, or other instrument under section 7 of the said Ordinance.

(4) On an appointment of a new trustee, the number of trustees may be increased.

(5) The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the power.

76. (1) Whenever any such vacancy or disqualification occurs, and it is found not reasonably practicable to appoint a new trustee under section 75, or where for any other reason the due execution of the trust is or becomes impracticable, the beneficiary may, without instituting a suit, apply by petition to the court for the appointment of a trustee or a new trustee, and the court may appoint a trustee or a new trustee accordingly.

Appointment by court.

(2) In appointing new trustees, the court shall have regard—

Rules for selecting new trustees.

- (a) to the wishes of the author of the trust as expressed in or to be inferred from the instrument of trust;
- (b) to the wishes of the person, if any, empowered to appoint new trustees ;

Petition to be discharged from trust-

74. Notwithstanding the provisions of section 11, every trustee may apply by petition to the court to be discharged from his office ; and, if the court finds that there is sufficient reason for such discharge, it may discharge him accordingly, and direct his costs to be paid out of the trust property. But where there is no such reason, the court shall not discharge him, unless a proper person can be found to take his place.

Appointment of new trustees on death. &c,

75. (1) Whenever any person appointed a trustee disclaims, or any trustee, either original or substituted, dies, or is absent from Sri Lanka for such a continuous period and under such circumstances that, in the opinion of the court, it is desirable, in the interests of the trust, that his office should be declared vacant, or is declared an insolvent, or desires to be discharged from the trust, or refuses or is or becomes, in the opinion of the court, unfit or personally incapable to act in the trust, or accepts an inconsistent trust, a new trustee may be appointed in his place by—

- (a) the person nominated for that purpose by the instrument of trust (if any) ; or
- (b) if there be no such person, or no such person able and willing to act, the author of the trust if he be alive and competent to contract, or the surviving or continuing trustees or trustee for the time being, or legal representative of the last surviving and continuing trustee, or (with the

- (c) to the question whether the appointment will promote or impede the execution of the trust; and
- (d) where there are more beneficiaries than one, to the interests of all such beneficiaries.

(3) Every order of appointment made under this section shall, in so far as it affects immovable property, contain the particulars required by section 13 of the Registration of Documents Ordinance and section 29 of the said Ordinance shall apply to every such order in the same manner as if it were an instrument which affects land ;

Provided that no order of appointment of a trustee of any charitable trust under this section shall be deemed to be invalidated by reason of the fact that it does not contain the said particulars, or shall be liable to be defeated by the registration of any subsequent deed, order, or other instrument under section 7 of the said Ordinance.

Vesting of trust property in new trustees-

77. (1) Whenever any new trustee is appointed under section 75 or section 76, or under or in pursuance of any other provision of this Ordinance, all the trust property for the time being vested in the surviving or continuing trustees or trustee, or in the legal representatives of any trustee, and all the rights of suit in relation thereto of the trustee in whose place the appointment is made, shall become vested in such new trustee, either solely or jointly with the surviving or continuing trustees or trustee, as the case may require.

Powers of new trustees.

(2) Every new trustee so appointed, and every trustee appointed by a court either before or after the passing of this Ordinance, shall have the same powers, authorities, and discretions, and shall in all respect act as if he had been originally nominated a trustee by the author of the trust.

(3) Where any trust property comprises any stocks or any shares or securities transferable in any book kept by any company or society, or any shares in any ship registered under the law relating to merchant shipping, an instrument or order of appointment shall not take effect so far as it relates thereto, unless and until notice in writing of the appointment under such

instrument or order shall have been given by or on behalf of the new trustee so appointed to the person or authority in charge of the register or book in which such stocks, shares, or securities, as the case may be, are entered, and upon such notice in writing being given, and on reasonable proof being furnished that such stocks, shares, or securities form part of the said trust property, the new trustee shall be entitled to a transfer into his name of any such stocks, shares, or securities, and to the receipt of all dividends, interest, or other sums due, or to become due, in respect of any such stocks, shares, or securities.

78- On the death or discharge of one of several co-trustees the trust survives, and the trust property passes to the others, unless the instrument of trust expressly declares otherwise. Survival of trust-

CHAPTER VIII

OF THE EXTINCTION OF TRUSTS

79. A trust is extinguished— Trust how extinguished.

- (a) when its purpose is completely fulfilled ; or
- (b) when its purpose becomes unlawful; or
- (c) subject to the powers of the court under Chapter X and to section 110 (4), when the fulfilment of its purpose becomes impossible by destruction of the trust property or otherwise ; or
- (d) when the trust, being revocable, is expressly revoked.

80. (1) A trust created by will may be revoked at the pleasure of the testator. Revocation of trust'

(2) A trust created otherwise than by will can be revoked only—

- (a) where all the beneficiaries are « competent to contract, by their consent ,
- (b) where the trust has been declared by a non-testimentary instrument or by word of mouth, in exercise of a power of revocation expressly reserved to the author of the trust; or

(c) where the trust is for the payment of the debts of the author of the trust, and has not been communicated to the creditors, at the pleasure of the author of the trust.

Illustration

A conveys property to B in trust to sell the same and pay out of the proceeds the claims of A's creditors. A reserves no power of revocation. If no communication has been made to the creditors, A may revoke the trust. But if the creditors are parties to the arrangement, the trust cannot be revoked without their consent.

Revocation not to defeat what trustees have duly done.

81. No trust can be revoked by the author of the trust so as to defeat or prejudice what the trustees may have duly done in execution of the trust.

CHAPTER IX

CONSTRUCTIVE TRUSTS

Where obligation in nature of trust is created.

82. An obligation in the nature of a trust (hereinafter referred to as a "constructive trust") is created in the following cases.

Where it does not appear that transferor intended to dispose of beneficial interest.

83. Where the owner of property transfers or bequeaths it, and it cannot reasonably be inferred consistently with the attendant circumstances that he intended to dispose of the beneficial interest therein, the transferee or legatee must hold such property for the benefit of the owner or his legal representative.

Illustrations

(a) A conveys land to B without consideration and declares no trust of any part. It cannot, consistently with the circumstances under which the transfer is made, reasonably be inferred that A intended to transfer the beneficial interest in the land. B holds the land for the benefit of A.

(b) A transfers certain stock belonging to him into the joint names of himself and B. It cannot, consistently with the circumstances under which the transfer is made, reasonably be inferred that A intended to transfer the beneficial interest in the stock during his life. A and B hold the stock for the benefit of A during his life.

(c) A makes a gift of certain land to his wife B. She takes the beneficial interest in the land free from any trust in favour of A, for it may reasonably be inferred from the circumstances that the gift was for B's benefit.

84. Where property is transferred to one person for a consideration paid or provided by another person, and it appears that such other person did not intend to pay or provide such consideration for the benefit of the transferee, the transferee must hold the property for the benefit of the person paying or providing the consideration.

Transfer to one for consideration paid by another.

85. Where a trust is incapable of being executed, or where the trust is completely executed without exhausting the trust property, the trustee, in the absence of a direction to the contrary, must hold the trust property, or so much thereof as is unexhausted, for the benefit of the author of the trust or his legal representative.

Trust incapable of execution or executed without exhausting trust property.

Illustrations

(a) A conveys certain land to B—

" Upon trust ", and no trust is declared ; or

" Upon trust to be thereafter declared ", and no such declaration is ever made ; or

Upon trusts that are too vague to be executed ; or

Upon trusts that become incapable of taking effect; or

"In trust for C ", and C renounces his interest under the trust.

In each of these cases B holds the land for the benefit of A.

(b) A transfers Rs. 10,000 in the four per cents, to B, in trust to pay the interest annually accruing due to C for her life. A dies- Then C dies. B, holds the fund for the benefit of A's legal representatives.

(c) A conveys land to B upon trust to sell it and apply one moiety of the proceeds for certain charitable purposes, and the other for the maintenance of a particular form of worship. B sells the land, but the charitable purposes wholly fail, and the maintenance of the worship does not exhaust the second moiety of the proceeds- B holds the first moiety and the part unapplied of the second moiety for the benefit of A or his legal representative.

(d) A bequeaths Rs. 10,000 to B, to be laid out in buying land to be conveyed for purposes which either wholly or partially fail to take effect. B holds for the benefit of A's legal representative the undisposed of interest in the money or land, if purchased.

86. Where the owner of property transfers it to another for an illegal purpose, and such purpose is not carried out into execution, or the transferor is not as guilty as the transferee, or the effect of permitting the transferee to retain the property might be to defeat the provisions of any law, the transferee must hold the property for the benefit of the transferor.

Transfer for illegal purpose.

Bequest for illegal purpose.

87. (1) Where a testator bequeaths certain property upon trust, and the purpose of the trust appears on the face of the will to be unlawful, or during the testator's lifetime the legatee agrees with him to apply the property for an unlawful purpose, the legatee must hold the property for the benefit of the testator's legal representative. '

(c) A, a partner, buys land in his own name with funds belonging to the partnership. A holds such land for the benefit of the partnership.

(d) A, a partner, employed on behalf of himself and his co-partners in negotiating the terms of a lease, clandestinely stipulates with the lessor for payment to himself of a lakh of rupees. A holds the lakh for the benefit of the partnership.

Bequest of which revocation is prevented by duress.

(2) Where property is bequeathed and the revocation of the bequest is prevented by duress, the legatee must hold the property for the benefit of the testator's legal representative.

(e) A and B are partners- A dies. B, instead of winding up the affairs of the partnership, retains all the assets in the business. B must account to A's legal representative for the profits arising from A's share of the capital.

(f) A, an agent employed to obtain a lease for B, obtains the lease for himself. A holds the lease for the benefit of B.

Transfer pursuant to rescindable contract-

88. Where property is transferred in pursuance of a contract which is liable to rescission or induced by fraud or mistake, the transferee must, on receiving notice to that effect, hold the property for the benefit of the transferor, subject to repayment by the latter of the consideration actually paid, and subject to any compensation or other relief to which the transferee may be by law entitled.'

(g) A, a guardian, buys up for himself incumbrances on his ward B's estate at an under-value. A holds for the benefit of B the incumbrances so bought, and can only charge him with what he has actually paid.

91. Where, by the exercise of undue influence, any advantage is gained in derogation of the interests of another, the person gaining such advantage without consideration, or with notice that such influence has been exercised, must hold the advantage for the benefit of the person whose interests have been so prejudiced.

Advantage gained by exercise of undue influence.

Debtor becoming creditor's representative.

89. Where a debtor becomes the executor or other legal representative of his creditor, he must hold the debt for the benefit of the persons interested therein.

92. Where a co-owner, mortgagee, or other person with a qualified interest in any property, by availing himself of his position as such, gains an advantage in derogation of the rights of the other persons interested in the property, or where any such person, as representing all persons interested in such property, gains any advantage, he must hold, for the benefit of all persons so interested, the advantage so gained, but subject to repayment by such persons of their due share of the expenses properly incurred, and to an indemnity by the same persons against liabilities properly contracted, in gaining such advantage.

Advantage gained by qualified

Advantage gained by fiduciary.

90. Where a trustee, executor, partner, agent, director of a company, legal adviser, or other person bound in a fiduciary character to protect the interests of another person, by availing himself of his character, gains for himself any pecuniary advantage, or where any person so bound enters into any dealings under circumstances in which his own interests are, or may be, adverse to those of such other person and thereby gains for himself a pecuniary advantage, he must hold for the benefit of such other person the advantage so gained.

Illustrations

(a) A, an executor, buys at an under-value from B, a legatee, his claim under the will. B is ignorant of the value of the bequest. A must hold for the benefit of B the difference between the price and value.

(b) A, a trustee, retires from his trust in consideration of his successor paying him a sum of money. A holds such money for the benefit of his beneficiary.

Illustration

A mortgages land to B, who enters into possession. B - allows taxes due on the land to fall into arrear with a view to the land being put up for sale and his becoming himself the purchaser of it. The land is accordingly sold to B. Subject to the repayment of the amount due on the mortgage and of his expenses properly incurred as mortgagee, B holds the land for the benefit of A.

Property acquired with notice of existing contract.

93. Where a person acquires property with notice that another person has entered into an existing contract affecting that property, of which specific performance could be enforced, the former must hold the property for the benefit of the latter to the extent necessary to give effect to the contract:

Provided that in the case of a contract affecting immovable property, such contract shall have been duly registered before such acquisition.

Purchase by person contracting to buy property to be held on trust.

94. Where a person contracts to buy property to be held on trust for certain beneficiaries and buys the property accordingly, he must hold the property for their benefit to the extent necessary to give effect to the contract.

Advantage secretly gained by one of several compounding creditors.

95. Where creditors compound the debts due to them, and one of such creditors, by a secret arrangement with the debtor, gains an undue advantage over his co-creditors, he must hold for the benefit of such creditors the advantage so gained.

Constructive trusts in cases not expressly provided for.

96. In any case not coming within the scope of any of the preceding sections where there is no trust, but the person having possession of property has not the whole beneficial interest therein, he must hold the property for the benefit of the persons having such interest, or the residue thereof (as the case may be), to the extent necessary to satisfy their just demands.

Illustrations

- (a) A, an executor, distributes the assets of his testator B to the legatees without having paid the whole of B's debts. The legatees hold for the benefit of B's creditors, to the extent necessary to satisfy their just demands, the assets so distributed.
- (b) A by mistake assumes the character of a trustee for B, and under colour of the trust receives certain money. B may compel him to account for such moneys.
- (c) A makes a gift of a lakh of rupees to B, reserving to himself, with B's assent, power to revoke at pleasure the gift as to Rs. 10,000. The gift is revoked by A as to Rs. 10,000 and B thereupon holds that sum for the benefit of A.

Obligor's duties, liabilities, and disabilities.

97. The person holding property in accordance with any of the preceding sections of this Chapter must, so far as may be, perform the same duties, and, save as in

this Ordinance otherwise provided, is subject, so far as may be, to the same liabilities and disabilities, as if he were a trustee of the property for the person for whose benefit he holds it:

Provided that—

- (a) where he rightfully cultivates the property or employs it in trade or business, he is entitled to reasonable remuneration for his trouble, skill, and loss of time in such cultivation or employment; and
- (b) where he holds the property by virtue of a contract with a person for whose benefit he holds it, or with anyone through whom such person claims, he may, without the permission of the court, buy or become lessee or mortgagee of the property or any part thereof.

98. Nothing contained in this Chapter shall impair the rights of transferees in good faith for valuable consideration, or create an obligation in evasion of any law for the time being in force.

Saving rights of bona fide purchasers.

CHAPTER X

CHARITABLE TRUSTS

99. (1) The expression "charitable Special trust" includes any trust for the benefit of the public or any section of the public within or without Sri Lanka of any of the following categories :—

- (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 any other purposes beneficial or of interest to mankind not falling within the preceding categories.

(2) The expression "adaptation" with reference to a trust means adaptation of the "trust in such a manner as to carry out the wishes of the author of the trust as nearly as practicable, according to the doctrine of *cypres*, where it is not possible to carry out those wishes in the exact manner prescribed by the instrument of trust.

(3) The expression "settlement of a scheme" includes variation of a scheme previously settled.

(4) The expression "place of religious resort" includes the establishments commonly known as "madams" or "chat trams".

General powers of the court.

100. The court shall have the same power for the establishment, regulation, protection, and adaptation of all "charitable trusts" (as defined by this Ordinance) as are exercised for the time being with reference to "charitable trusts" within the meaning of English law by the High Court of Justice in England.

Actions for carrying into effect trusts for public charity.

101. (1) In case of any alleged breach of any express or constructive charitable trust, or whenever the direction of the court is deemed necessary for the administration of any such trust, the Attorney-General acting *ex officio*, or two or more persons having an interest in the trust, and having obtained the consent in writing of the Attorney-General, may institute an action in the court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is held or situate to obtain a decree—

- (a) removing any trustees or trustee of the charity and, if necessary, appointing new trustees thereof;
- (b) directing accounts and inquiries ;
- (c) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;
- (d) authorizing the whole or any part of the trust property to be let, sold, mortgaged, or exchanged ;
- (e) settling a scheme for the management of the trust ;
- (f) granting such further or other relief as the nature of the case may require.

(2) Nothing contained in this or the next succeeding section shall be deemed to preclude the trustee or author of any charitable trust from applying to the court by action or otherwise for such direction or relief as he may be entitled to obtain under the general provisions of this Ordinance, or

for the purpose of invoking the assistance of the court for the better securing of the objects of the trust, or for regulating its administration or the succession to the trusteeship, and upon any such application the court may make such order as it may deem equitable.

(3) For the purpose of any proceeding under this section with respect to any religious trust, regard shall be had to the statutory or other powers belonging to, or customarily exercised by, the authorities of any religious body or society concerned in the administration of the trust.

(4) This section shall not apply to trusts governed by the next succeeding section.

102. (1) Subject to the conditions of subsection (3) hereof, any five persons interested in any place of worship, or in any religious establishment or place of religious resort, or in the performance of the worship or of the service thereof, or in the trusts, express or constructive, relating thereto, may, without joining as plaintiff any of the other persons interested, institute an action in the court within the local limits of whose civil jurisdiction any such place or establishment is situate, or if such place is situate outside Sri Lanka, and the action is instituted with respect to immovable property situate within Sri Lanka, in the court having local jurisdiction, to obtain a decree—

- (a) settling a scheme for the management of the trusts thereof ;
- (b) vesting any property in the trustees ;
- (c) enumerating the properties comprised in the trust, or declaring that any property is trust property - comprised in the trust ;
- (d) directing accounts and inquiries ;
- (e) declaring what proportion of the trust property or of any interest therein - shall be allocated to any particular object of the trust;
- (f) - declaring any trustee, manager, or superintendent of such place or establishment, or member of any committee of management, guilty of any misfeasance, breach of trust, or neglect of duty ;

Suits by persons interested in religious trusts-

- (g) awarding damages and costs "against any such trustee, manager, superintendent, or member of a committee in respect of any such misfeasance, breach of trust, or neglect of duty ;
- (h) directing the removal of any trustee, manager, superintendent, or member of a committee, and, if necessary, directing the appointment of any new trustee, manager, superintendent, or member of a committee ;
- (i) directing the specific performance of any act by any trustee* manager, superintendent, or member of a committee ;
- (j) granting such further or other relief as the nature of the case may require.

(2) The interest required in order to entitle a person to sue under this section need not be a pecuniary or immediate interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the trust. Any person who is connected with the trust as donor, or by family or hereditary interests, or who for a period of not less than twelve months has been in the habit of attending at the performance of the worship or services of, or connected with, the place or establishment in question, or of contributing to the general or any special expenses incidental to such worship or services, or of partaking in the benefit of any distribution of alms thereat, or in connection therewith, or of otherwise enjoying the benefit of the trust, shall be deemed to be a person interested within the meaning of this section.

(3) No action shall be entertained under this section unless the plaintiffs shall have previously presented a petition to the Government Agent of the Administrative District in which such place or establishment is situate praying for the appointment of a . commissioner or commissioners to inquire into the subject-matter of the plaint, and unless the Government Agent shall have certified that an inquiry has been held in pursuance of the said petition, and that the commissioner or commissioners (or a majority of them) has reported—

(a) that the subject-matter of the plaint is one that calls for the consideration of the court ; and

(b) either that it has not proved possible to bring about an amicable settlement of the questions involved, or that the assistance of the court is required for the purpose of giving effect to any amicable settlement that has been arrived at.

(4) It shall be the duty of the Government Agent, in any case in which he shall have good reason to believe that the persons presenting such petition or any five of them are persons interested within the meaning of subsection (2) of this section, for which purpose he may require to be satisfied by affidavit or otherwise, to appoint for the purposes of the inquiry a commissioner or commissioners whom he may consider to be a person or persons of acknowledged standing and repute in the general or local religious community concerned ,

Provided that the Government Agent may appoint himself as the commissioner or as one of the commissioners ;

Provided further, that the Government Agent may require the petitioners to deposit with him an amount sufficient to cover the reasonable expenses of the commissioner or commissioners in respect of travelling expenses and subsistence incidental to the inquiry prayed for and any such costs certified by the Government Agent to have been properly incurred for the purposes of the inquiry and to have been duly paid shall be deemed to be costs in the action.

(5) It shall be the duty of any commissioner or commissioners appointed for the purpose of any such inquiry to render a report in terms of subsection (3) hereof within such time as shall be specified for the purpose by the Government Agent, or within such further time as he may from time to time authorize.

(6) The report shall be Filed in the office of the Government Agent, and the petitioners and the trustee shall be entitled, on payment of the usual copying charges, to be furnished with a copy thereof.

(7) The court shall not be precluded from amending the plaint so as to include therein any matter arising in the course of the proceedings by the fact that such matter was not included in the petition to the Government Agent, if it shall be of opinion that in all the circumstances of the case such matter may be equitably included in the action.

(8) This section shall not apply to any Christian religious trust.

Power to refer matter for arbitration or inquiry.

103. In any action instituted under the last preceding section, it shall be lawful for the court—

- (a) on the application of the parties, to order any matter in difference therein to be referred for decision to - one or more arbitrators ;
- (b) to appoint a committee for the purpose of making an inquiry and reporting to the court 'with reference to any matter involved in the action or arising in the course thereof, or for the purpose of assisting the court in the exercise of its powers under the last preceding section, or for the settlement or adjustment of any matter involved in the action or arising in the course thereof.

Powers of commissioners, &c.

104. (1) The following persons, that is to say—

- (a) any commissioner or commissioners appointed under section 102 (4) ;
- (b) any persons directed to make inquiries under section 102 (1)(d) ;
- (c) any arbitrator or committee appointed under section 103,

shall, in addition to any other powers necessary for the effective discharge of the duties imposed upon such persons, have the following powers, that is to say—

- (i) to summon witnesses ;
- (ii) to administer oaths or affirmations ;
- (iii) to require the trustee or any witness summoned for the purpose to give all particulars that may be within his knowledge relating to any immovable property which is or

ought to be comprised in the trust, the offerings received for the purposes of the trust, the expenses incidental to its administration and the manner in which it is conducted.

(2) Any person who, without due excuse, the proof of which shall lie on him, shall make default in complying with any summons authorized under this section, or who shall refuse to answer to the best of his ability any question or inquiry addressed to him under the provisions of this section, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding two hundred rupees.

105. In the exercise of its powers under Power of court section 102, without prejudice to its general as to accounts. powers under that section, the court may—

- (a) order any trustee of any place or establishment therein mentioned to file accounts for a period not exceeding three years prior to the date of the order ;
- (b) hold or direct an inquiry into the matters complained of or accounts so filed;
- (c) surcharge and falsify any item in the accounts ;
- (d) require the trustee to make good any defalcation, irregular payment, or deficiency ;
- , (e) in any case in which it shall be satisfied that owing to the manner in which the trust incidental to such place or establishment has been conducted in the past it is not possible for the trustee to furnish accounts, require as a condition of the continuance of the trustee in his office that he shall deposit for the purposes of the trust a specified amount not exceeding the amount for which, in the opinion of the court after inquiry into all the circumstances of the case, he may be reasonably held to be responsible in respect of the three years prior to the date of the order ;
- (f) indemnify the trustee on such terms as it may deem equitable in respect of any past neglects, misfeasances, or irregularities ;

- (g) direct the manner in which all future accounts shall be kept;
- (h) authorize in any scheme framed under the said section the devotion of a portion of the income of the trust property to the education of children of the religious community interested in the trust, and, if necessary, the utilization of any immovable property comprised in the trust as a site, for; the said purpose.

Application of religious law.

106. In settling any scheme for the management of any trust under section 102, or in determining any question relating to—

- (a) the constitution or existence of any such trust;
- (fr) the devolution of the trusteeship ;
- (c) the administration of the trust;

the court shall have regard—

- (i) to the instrument of trust (if any) ;
- (ii) to the religious law and custom of the community concerned ;
- (iii) to the local custom or practice with reference to the particular trust concerned ;

and may have regard to any arrangement *de facto* in force for the purpose of the administration of the trust.

Defacto trusts.

107. In dealing with any property alleged to be subject to a charitable trust, the court shall not be debarred from exercising any of its powers by the absence of evidence of the formal constitution of the trust, if it shall be of opinion from ail the circumstances of the case that a trust in fact exists, or ought to be deemed to exist.

Special powers of court.

108. In settling any scheme for the management of a charitable trust (without prejudice to its general powers), the court shall have the powers following :—

- (a) to provide for the periodical auditing of the accounts of the trust property by auditors appointed by or subject to the approval of the court, or otherwise as the court may deem expedient ;
- (b) to provide for the visitation of the charity ;

- (c) to provide for the settlement of the remuneration of the trustee :

Provided that no such remuneration shall in any case exceed ten *per centum* of the gross income of the trust;

- (d) to devote any surplus income that may be available after the reasonable satisfaction of the objects of the trust to the extension of such objects, or, if the court see fit, to purposes of education.

109. This Chapter shall not apply—

- (a) to religious trusts regulated by the Buddhist Temporalities Ordinance ;
- (b) to religious trusts regulated by the Muslim Mosques and Charitable Trusts or Wakfs Act.

Exclusion of trusts under the Buddhist Temporalities Ordinance and the Muslim Mosques and Charitable Trusts or Wakfs Act.

CHAPTER XI

MISCELLANEOUS

110. (1) No trust shall operate to create an interest which is to take effect after the lifetime of one or more persons living at the date of the constitution of the trust, and the minority of some person who shall be in existence at the expiration of that period and to whom, if he attains full age, the interest created is to belong. Rule against perpetuities.

(2) If owing to any trust an interest is created for the benefit of a class of persons with regard to some of whom such interest fails by reason of the provisions of this section, such interest fails as regards the whole class.

(3) Where an interest fails by reason of the provisions of this section, any interest created in the same transaction and intended to take effect after or upon failure of such prior interest also fails.

(4) In any case in which any interest intended to be created fails by reason of the provisions of this section, the court shall have power to give effect to the trust in such a manner as to carry out as nearly as practicable the intentions of the author of the trust, subject to the limits imposed by this section, and may make any order necessary for the purpose.

(5) The restrictions of this section shall not apply to charitable trusts as defined by section 99.

(5) This section shall not apply to constructive trusts, except in so far as such trusts are treated as express trusts by the law of England.

Prescription

111. (1) In the following cases, that is to say

- (a) in the case of any claim by any beneficiary against a trustee founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy ;
- (b) in the case of any claim to recover trust property, or the proceeds thereof still retained by a trustee, or previously received by the trustee and converted to his use , and
- (c) in the case of any claim in the interests of any charitable trust, for the recovery of any property comprised in the trust, or for the assertion of title to such property,

the claim shall not be held to be barred or prejudiced by any provision of the Prescription Ordinance.

(2) Save as aforesaid, all rights and privileges conferred by the Prescription Ordinance shall be enjoyed by a trustee in all actions and legal proceedings in the like manner and to the like extent as they would have been enjoyed if the trustee had not been a trustee ;

Provided that in the case of any action or other proceeding by a beneficiary to recover money or other property, the period of prescription shall not begin to run against such beneficiary, unless and until the interest of such beneficiary shall be an interest in possession.

(3) No beneficiary as against whom there would be a good defence by virtue of this section shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought such action or other proceeding and this section had been pleaded.

(4) Nothing in this section shall preclude the court from giving effect to any application by a trustee for any equitable relief to which he would otherwise be entitled on any ground recognized by the court.

112. (I) In any of the following cases. Vesting orders. namely :-

- (i) where it is uncertain in whom the title to any trust property is vested , or
- (ii) where a trustee or any other person in whom the title to trust property is vested has been required in writing , . to transfer the property by or on behalf of a person entitled to require such transfer, and has wilfully refused or neglected to transfer the property for twenty-eight days after the date of the requirement,

the court may make an order (in this Ordinance called a " vesting order ") vesting the property in any such person in any such manner or to any such extent as the court may direct.

(2) A vesting order under any provision of this Ordinance shall have the same effect as if the trustee or other person in whom the trust property was vested had executed a transfer to the effect intended by the order.

(3) A vesting order under this Ordinance, in so far as it affects immovable property, shall contain the particulars required by section 13 of the Registration of Documents Ordinance, and section 29 of the said Ordinance shall apply to every such order in the same manner as if it were an instrument which affects land :

Provided that no such order in the case of any charitable trust shall be invalidated by reason of the fact that it does not contain the said particulars, or shall be liable to be defeated by the registration of any subsequent deed, order, or other instrument under section 7 of the said Ordinance.

(4) Where any trust property comprises any stocks or any shares or securities transferable in any book kept by any company or society, or any shares in any ship registered under the law relating to merchant shipping, a vesting order under this section shall not take effect, so far as it relates thereto, unless and until notice of

such order in writing shall have been given by or on behalf of the person in whom the property is vested under the order to the person or authority in charge of the register or book in which such stocks, shares, or securities, as the case may be, are entered, and upon such notice in writing being given, and on reasonable proof being furnished that such stocks, shares, or securities form part of the said trust property, the person in whom the property is vested under the order shall be entitled to a transfer into his name of any such stocks, shares, or securities, and to the receipt of all dividends, interest, or other sums due, or to become due, in respect of any such stocks, shares, or securities.

(5) In all cases in which a vesting order can be made under this section the court may, if it is more convenient, appoint a person to transfer the property, and a transfer by that person in conformity with the order shall have the same effect as an order under this section, and every person so appointed for the purposes of all transactions, proceedings, and formalities incidental to the said transfer shall have all the powers and capacities of the trustee or other person in whom the trust property was vested, and shall be deemed to be the duly authorized attorney of such trustee or other person for the purposes aforesaid.

Devolution of trust properly.

113. (I) Where, whether before or after the commencement of this Ordinance, it is declared or intended in any instrument of trust that the trustee of the trust shall be a person for the time being holding or acting in any public office, or holding or acting in any office or discharging any duty in any public or private institution, body, corporation, association, or community, or where any property comes into or is in the possession or ownership of any such person in any of the aforesaid capacities upon any constructive trust, the title to the trust property shall devolve from time to time upon the person for the time being holding or acting in any such office, or discharging such duty, without any conveyance, vesting order, or other assurance otherwise necessary for vesting the property in such person.

(2) Where, whether before or after the commencement of this Ordinance, in the case of any charitable trust, or in the case of

any trust for the purpose of any public or private association (not being an association for the purpose of gain), a method for the appointment of new trustees is prescribed in the instrument of trust (other than nomination in the manner referred to in paragraph (a) of section 75), or by any rule in force, or in the absence of any such prescribed method is established by custom, then upon any new trustee being appointed in accordance with such prescribed or customary method, and upon the execution of the memorandum referred to in the next succeeding subsection, the trust property shall become vested without any conveyance, vesting order, or other assurance in such new trustee and the old continuing trustees jointly, or if there are no old continuing trustees, in such new trustee wholly.

(3) Every appointment under the last preceding subsection shall be made to appear by a memorandum under the hand of the person presiding at the meeting, or other proceeding at which the appointment was made, and attested by two other persons present at the said meeting or proceeding. Every such memorandum shall be notarially executed.

(4) It shall be the duty of the Registrar-General to prepare and maintain special registers of trustees appointed under subsection (2) of this section, and it shall be the duty of every notary before whom any such memorandum is attested to forward to the prescribed officer for the purpose of such registers all such particulars with reference to such memorandum as may be prescribed by rules made under the Notaries Ordinance.

(5) All rules made in pursuance of the last preceding subsection shall apply to notaries who are attorneys-at-law in the same manner as to other notaries, anything in section 36 of the Notaries Ordinance, to the contrary notwithstanding.

114. The Minister may, in his discretion, Incorporation by Order, on the application of the trustees of trustees. of any charitable trust or of any public or private association (not being an association for the purposes of gain), authorize the incorporation of the said trustees, and upon the publication of the said Order, the said trustees of the charity or association and

their successors for the time being shall be constituted a corporation under such style and subject to such conditions as may be specified in the Order.

Persons may assign property in trust to themselves and others.

115. Any person shall have power to assign and convey movable and immovable property, now by law assignable, directly to himself and another person, or other persons or corporation, by the like means as he might assign or convey the same to another. And no transfer or assignment of movable or immovable property heretofore made or executed by a person to himself and another person or persons or corporation shall be deemed to be in any manner invalid by reason of its being a transfer or assignment by a person to himself and another person or persons or corporation :

Provided that nothing in this section contained shall give any validity to any assignment or conveyance which would have been heretofore by any law or custom invalid by any other reason than by reason of its being an assignment or conveyance by a person to himself and any other person or persons or corporation.

116. (1) All actions and other Procedure. proceedings under this Ordinance shall be governed by the enactments and rules relating to civil procedure for the time being in force.

(2) The Judges of the Supreme Court may make rules regulating the procedure to be observed in all proceedings under this Ordinance in respect of all matters for which no provision is made by such enactments and rules, and pending the making of such rules, such procedure shall be followed as shall be directed by the court,

(3) All petitions presented in any court in any proceeding under this Ordinance shall bear a stamp of ten rupees.

117. If the court shall be of opinion, at Costs. the termination of any suit instituted with reference to any trust, that the suit has been for the benefit of the trust, and that no party to the suit ought to be made responsible for the whole of the costs, the court may order the costs of such portion as it may consider just to be paid out of the trust property -

CHAPTER 163

TUNDUS

Ordinance No. 43 of 1921. AN ORDINANCE TO MAKE PROVISION AGAINST THE ISSUE AND USE OF DOCUMENTS COMMONLY KNOWN AS " TUNDUS " IN RESPECT OF INDIAN LABOURERS.

[17 th December, 1921.]

Short title. **1.** This Ordinance may be cited as the *Tundu* Prohibition Ordinance. indebtedness heretofore effected by means of a *tundu*;

Penalties for issuing, &c., tundus. **2.** (1) Any person who after the commencement of this Ordinance. to or in respect of any labourers as defined in section 3 of the Estate Labour (Indian) Ordinance, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding twenty thousand rupees, or to imprisonment of either description for any period not exceeding two years, or to both.

(a) issues or causes or permits to be issued a *tundu*; or

(b) accepts or agrees to accept any *tundu* or any obligation arising thereunder or intended to be imposed thereby; or

(c) gives or enters into any undertaking, express or implied, with regard to any *tundu*; or

(d) enters into or takes any part in any transaction for the transfer of any

(2) For the purposes of this Ordinance the expression "*tundu*" means the document commonly called a *tundu*, and in use at the time of the commencement of this Ordinance, under the provisions of the Estate Labour (Indian) Ordinance; it also includes any document, whatever its form may be, whereby the objects attained by a *tundu* at the time of the commencement of this Ordinance are sought to be attained after such commencement.

CHAPTER 521

TELECOMMUNICATIONS

Ordinance AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO TELEGRAPHY
 No. 50 of 1944, AND WIRELESS TELEGRAPHY,
Acts
 Nos. 7 of 1948,
 10 of 1970,
Law
 No. 17 of 1974,
Act
 No. 67 of 1979.

[1st May, 1945.]

PART 1

PRELIMINARY

Short title. **1.** This Ordinance may be cited as the
 Telecommunications Ordinance.

PART II

**REGULATION OF THE USE OF TELEGRAPHS
 AND WIRELESS TELEGRAPHS**

Licences for ***3.** Except under the authority of a
 telegraphs. licence of the prescribed description, issued
 under the provisions of this Ordinance, no
 person shall install, establish, maintain, or
 work or cause to be worked, any telegraph
 in any place in Sri Lanka, in any part of the
 territorial waters thereof, or in any ship or
 aircraft registered in Sri Lanka:

Provided that the requirements of the
 preceding provisions of this section as to a
 licence shall not apply to the establishment
 or conduct of telegraphic communications
 between separate portions of any ship or
 aircraft or building or between two or more
 places or points situated within the same
 curtilage and forming parts of the same
 property.

Licences for **4.** (1) Except under the authority of a
 wireless telegraph licence of the prescribed description, issued
 apparatus and complete person shall—
 wireless sets.

(a) import into Sri Lanka any wireless
 telegraphy apparatus; or

(b) possess any complete wireless set for
 any purpose whatsoever; or

(c) possess any wireless telegraphy
 apparatus, other than a complete
 wireless set referred to in paragraph
 (b), for the purpose of sale in the
 course of his business in Sri Lanka
 or for the purpose of effecting
 repairs for fee or reward ; or

(d) in the course of his business in Sri
 Lanka, deal in, sell, offer for sale,
 or demonstrate or cause to be
 demonstrated with a view to a sale,
 any wireless telegraphy apparatus,
 or effect any repairs to any wireless
 telegraphy apparatus for fee or
 reward; or

(e) install, establish, maintain, or work
 or cause to be worked any complete
 wireless set or wireless telegraph in
 any premises or vehicle in Sri
 Lanka, in any part of the territorial
 waters thereof, or in any ship or
 aircraft registered in Sri Lanka :

Provided that the requirements of the
 preceding provisions of this subsection as to
 a licence shall not apply in the case of any
 person by reason only of his working a
 complete wireless set in any case where such
 set is covered by a licence issued under the
 provisions of this Ordinance and is worked
 by such person with the permission, express

* Section 2 is omitted, as it refers to dependencies of Ceylon.
 f See also section 11 of the Maritimes Zones Law.

or implied, or on the instructions, of the holder of the licence, and at the premises specified in the licence, being premises in the actual occupation of the holder of the licence at the time the set is so worked.

(2) If any wireless telegraphy apparatus or complete wireless set which is not covered by a licence issued for the purposes of subsection (1) is kept or stored in any building, land, vehicle, vessel or aircraft in Sri Lanka or in the territorial waters thereof, then, until the contrary is proved, such wireless telegraphy apparatus shall be deemed to be possessed with a view to sale in the course of his business or for effecting repairs for fee or reward, and such complete wireless set shall be deemed to be possessed, or to be worked, by the person who is the owner or who for the time being is in exclusive possession or in effective charge or control of the building, land, vehicle, vessel or aircraft, as the case may be.

Issue of licences.

5. (1) A licence may be issued for any one of the purposes or for any prescribed combination of the purposes for which a licence is required by section 3 or section 4.

(2) Every licence shall—

- (a) be in the prescribed form and under the hand of the telecommunication authority or an officer authorized by him in that behalf;
- (b) be issued on payment of the prescribed fee; and
- (c) be subject to the prescribed conditions and restrictions:

Provided that no fee shall be payable in respect of any licence issued for any of the aforesaid purposes which is declared by regulations made under this Ordinance to be a purpose for which a free licence may be issued.

(3) The telecommunication authority may refuse to issue any licence for which application is made. An appeal shall lie against such refusal to the Minister.

6. No person shall import, possess, install, work, sell or transfer any wireless telegraphy apparatus in contravention of the conditions and restrictions applying to his licence, or otherwise than in such manner as may be prescribed.

Restriction on sale or transfer of wireless telegraphy apparatus.

7. (1) If, on the occurrence of any public emergency or in the interest of the public safety and tranquillity, it is expedient or necessary that the transmission or reception of messages by telegraph or wireless telegraph should be the exclusive right or privilege of the Government, the President, after consulting the Minister, may, by Order published in the Gazette, direct the telecommunication authority or any other specified officer to take possession of, and to use for the purposes of the State, any telegraph or wireless telegraph established or installed in any place in Sri Lanka or in any ship in the territorial waters of Sri Lanka or in any vehicle or aircraft in or over Sri Lanka or the territorial waters thereof, and may by the same or any further Order provide for the assessment and payment of compensation to the owner of such telegraph or wireless telegraph for any damage that may have been caused thereto by or in the course of its use for the purpose of the State.

Power of Government to take possession of licensed telegraphs and wireless telegraphs.

(2) No action shall be instituted or maintained against the Government in respect of any loss or damage other than the damage specified in subsection (1).

8. If, on the occurrence of any public emergency or in the interest of the public safety and tranquillity, it is expedient or necessary that the transmission and reception of messages by telegraph or wireless telegraph should be prohibited or be subject to supervision and control, the President, after consulting the Minister, may, by Order made either generally and published in the Gazette or specially in respect of the telegraphs or wireless telegraphs established or installed in any place in Sri Lanka or in any ship in the territorial waters of Sri Lanka or in any vehicle or aircraft in or over Sri Lanka or the territorial waters thereof—

Power of Government to prohibit or restrict the use of telegraphs and wireless telegraphs.

- (1) where prohibition is expedient or necessary, prohibit the transmission or reception of messages by

telegraph or wireless telegraph either generally or at any specified place or station or in any specified ship, vehicle or aircraft or by any specified telegraph or wireless telegraph or by any specified person or class of persons; or

- (2) where supervision and control are expedient or necessary—
 - (a) prescribe the conditions and restrictions subject to which messages may be transmitted or received by telegraph or wireless telegraph either generally or by the owner or person in charge of any specified telegraph or wireless telegraph; and
 - (b) make such provision as he may deem necessary for the interception or the censoring of all or any specified class or description of messages submitted for transmission by, or transmitted or received by, any telegraph or wireless telegraph.

Certificate signed by Minister to be evidence.

9. If any doubt arises as to the existence of a public emergency or whether any Order made under section 7 or section 8 is in the interest of the public safety and tranquillity, a certificate signed by the Minister shall be conclusive proof on the point.

Restriction on the use of telegraphs or wireless telegraphs.

10. No telegraph or wireless telegraph established or installed in any place in Sri Lanka, or in any ship in the territorial waters of Sri Lanka, or in any vehicle or aircraft in or over Sri Lanka or the territorial waters thereof, shall be used by any person for the transmission or reception of messages—

- (a) otherwise than in accordance with such Orders as may be made by the President under section 7 or section 8 or such regulations as may be made by the Minister under section 12 or such rules as may be made by the Minister under section 13 ; or
- (b) in contravention of the conditions or restrictions applying to the licence issued in respect of that telegraph or wireless telegraph.

11. (1) The telecommunication authority may at any time revoke and determine any licence granted for the purposes of section 3 or section 4, either on the breach of any of the conditions and restrictions contained therein or in the event of any default in the payment of any consideration payable thereunder or on the failure of the licensee to comply with any rule or regulation for the time being in force under the Ordinance or on such other ground as may be specified by regulation made under the Ordinance.

Power to revoke licences.

An appeal shall lie against such revocation to the Minister.

(2) The licensee shall not be entitled to the payment of any compensation or damages by reason of any such revocation or determination as aforesaid.

12. (1) The Minister may make all such regulations as may be necessary for carrying out or giving effect to the principles and provisions of this Ordinance.

Power to make regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for all or any of the following purposes;—

- (a) prescribing the several purposes or combinations of the purposes set out in section 3 or section 4 for which licences may be issued, and the description of such licences ;
- (b) prescribing in respect of each such licence the form of the licence, the manner in which application for the licence is to be made, the terms, conditions and restrictions subject to which the licence may be issued, the duration of the licence, the fee payable on the issue and on the renewal of the licence, and the purposes for which a free licence may be issued;
- (c) prescribing the cases in which any person licensed under this Ordinance or any servant of such person shall be deemed to be a telecommunication officer for the purposes of this Ordinance;

- (d) prescribing the rates at which, the manner in which, and the conditions and restrictions subject to which, messages shall be transmitted;
 - (e) prescribing the precautions to be taken for preventing the improper interception or disclosure of messages;
 - (f) prescribing the period for which, and the conditions subject to which, telegrams and other documents belonging to or in the custody of telecommunication officers, shall be preserved;
 - (g) prescribing the fees to be charged for searching for or furnishing certified copies of messages and other documents in the custody of any telecommunication officer;
 - (h) prescribing the manner in which any wireless telegraphy apparatus may be sold or transferred by traders, dealers or repairers and by other persons;
 - (i) regulating the working or use of wireless telegraphy apparatus in any place in Sri Lanka at any time when an Order under section 7 or section 8 is not in force;
 - (j) prohibiting or regulating the working or use of any wireless telegraphy apparatus at any time when an Order under section 7 or section 8 is not in force,
 - (i) in any ship while it is in the territorial waters of Sri Lanka; or
 - (ii) in any aircraft, while it is in or over Sri Lanka or the territorial waters thereof;
 - (k) prescribing the examinations to be held and the form of the certificates of proficiency to be issued to operators of telegraphs or wireless telegraphs;
 - (l) ensuring the secrecy of any specified class or description of messages;
 - (m) regulating or controlling the use of electrical apparatus likely to cause electrical interference with the working or use of any telegraph or wireless telegraph;
 - (n) regulating and controlling the working or use of telegraphs and wireless telegraphs;
 - (o) prescribing any matter relating to telegraphs or wireless telegraphs which is required or authorized by this Ordinance to be prescribed ;
 - (p) prescribing the procedure to be followed in appeals under this Ordinance.
- (3) No regulation made under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette:
- Provided that in any case of urgency, the Minister may, by notification in the Gazette, declare that any regulation made by him shall, notwithstanding that such regulation may not have been approved by Parliament, come into force on such date as may be specified in the notification, and such regulation shall accordingly come into force on that date. Every regulation so declared to be in force shall forthwith be laid before Parliament, and if within forty days after the date on which the regulation is so laid, a resolution be passed by Parliament that such regulation be modified or annulled, the regulation shall thenceforth be deemed for all purposes to be modified or annulled accordingly, but without prejudice to anything done thereunder.
- 13.** (1) Notwithstanding anything contained in section 12, the Minister may, for the purpose of giving effect to the provisions of any international Telecommunication Convention and the regulations annexed thereto, or for the purpose of giving effect to any special arrangement between the Government of Sri Lanka and any territory outside Sri Lanka,

Power to make rules as to conditions, restrictions and rates applicable to messages to or from foreign countries.

from time to time determine and adequately notify by means of rules made by him in that behalf and published in the Gazette—

- (a) the conditions and restrictions subject to which messages to or from any place beyond the limits of Sri Lanka or India shall be transmitted or received;
- (b) the rates at which such messages shall be transmitted;
- (c) the precautions to be taken for preventing the improper interception or disclosure of such messages;
- (d) the period for which and the conditions subject to which the originals of all such messages and all documents relating thereto which are in the custody of telecommunication officers shall be preserved ;
- (e) the fees to be charged for searching for or furnishing certified copies of such messages or of any documents relating thereto.

(2) Every rule made under subsection (1) shall, upon publication in the Gazette, be as valid and effectual as if it were herein enacted and shall prevail over any regulation under section 12 which purports to be applicable or would, if this subsection had not been enacted, have been applicable to the matter or purpose to which such rule relates.

Exemptions.

14. (1) Save as otherwise expressly provided, nothing contained in this Ordinance or in any Order, rule or regulation made thereunder, shall apply to or be deemed to affect—

- (a) the importation, purchase, installation or use of electrical apparatus for actuating machinery or for any purpose other than the transmission or reception of messages or other communications or signals; or

(b) the use of wireless telegraphy apparatus by the armed forces in the performance of their official duties; or

(c) the use of wireless telegraphy apparatus on board any man-of-war or aircraft in the service of any foreign State or Power.

(2) The requirements of this Ordinance as to licences shall not apply—

(a) to any telegraph or wireless telegraph imported, purchased, installed, established, maintained or worked or any apparatus used or intended to be used in connexion therewith, by or by order of the Director; or

(b) to any wireless telegraphy apparatus in any foreign civil aircraft, if such apparatus and the members of the crew of the aircraft who use such apparatus have been specially licensed in accordance with the requirements of the International Air Navigation Convention, 1919, or any other international convention for the time being in force as to the installation or use of such apparatus in aircraft.

(3) Nothing contained in any Order made under section 8 or in any regulation made under section 12 shall apply to the working or use of wireless telegraphy apparatus for the purpose of making or answering signals of distress.

PART III

ESTABLISHMENT AND MAINTENANCE OF GOVERNMENT TELEGRAPHS AND WIRELESS TELEGRAPHS

(A) POWER TO PLACE TELEGRAPH LINES AND POSTS

15. For the purposes of the establishment and maintenance of Government telegraphs and wireless telegraphs, the telecommunication authority may from time to time place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable

Power of telecommunication authority to place and maintain telegraph and wireless telegraph lines and posts,

property; and for that purpose it shall be lawful for any officer in the employ of Government in the Telecommunication Department, and for the servants, workmen, and labourers employed by or under such officer—

- (a) at all times on reasonable notice, and with all necessary vehicles and animals and other means, to enter upon any land and to put up thereon any posts which may be required for the support of any telegraph line; and
- (b) to fasten or attach to any tree growing on such land or to any building or thing thereon any bracket or other support for such line; and
- (c) to cut down any tree or branch which may in any way injure, or which is likely to injure, impede, or interfere with any telegraph line; and
- (d) severally to do and perform all other acts, matters and things necessary for the purposes of establishing, constructing, repairing, improving, examining, altering, or removing any telegraph or wireless telegraph, or in any way connected therewith, or for performing any act, matter or thing under the provisions of this Ordinance:

Provided that—

- (i) the telecommunication authority shall not exercise the powers conferred by this section except for the purposes of a telegraph or wireless telegraph established or maintained by the Government, or to be so established or maintained;
- (ii) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in, or upon which the telecommunication authority

places any telegraph line or post;

- (iii) except as hereinafter provided the telecommunication authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority without the permission of the Mayor or Chairman of such local authority; and
- (iv) in the exercise of the powers conferred by this section the telecommunication authority shall do as little damage as possible, and when it has exercised those powers in respect of any property, shall pay reasonable compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers, provided that such persons shall make application for such compensation to the Director within thirty days after the damage was sustained.

(B) PROVISIONS APPLICABLE TO PROPERTY VESTED IN OR UNDER THE CONTROL OR MANAGEMENT OF LOCAL AUTHORITIES

16. The permission of the Mayor or Chairman of a local authority for the purposes of paragraph (iii) of the proviso to section 15 may be given subject to such reasonable conditions as that local authority thinks fit to impose as to the payment of any expenses to which that local authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relating to any work undertaken by the telecommunication authority under those powers.

Power of local authority to give permission under paragraph (iii) of proviso to section 15, subject to conditions.

17. When under the foregoing provisions of this Ordinance a telegraph line or post has been placed by the telecommunication authority over, along, across, in, or upon any property vested in or

Power of local authority to require removal or alteration of telegraph line or post.

under the control or management of a local authority, and that local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed, or that its position should be altered, the Mayor or Chairman of the local authority may require the telecommunication authority to remove it or alter its position, as the case may be.

consequence of the telecommunication authority omitting to comply with a requisition made under section 17 or otherwise in respect of the exercise of the powers conferred by this Ordinance, the dispute shall be determined by the Minister, whose decision shall be final.

(C) PROVISIONS APPLICABLE TO OTHER PROPERTY

Power to alter position of gas or water pipes or drains.

18. The telecommunication authority may, for the purpose of exercising the powers conferred upon it by this Ordinance in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any line, wire, or cable for the supply of electric power, or of any drain (not being a main drain):

Provided that—

- (i) when the telecommunication authority desires to alter the position of any such pipe, drain, line, wire, or cable, it shall give reasonable notice of its intention to do so specifying the time at which it will begin to do so, to the Mayor or Chairman of the local authority and when the pipe, drain, line, wire, or cable is not under the control of the local authority, to the person having actual control of the pipe, drain, line, wire or cable ;
- (ii) the Mayor or Chairman of a local authority or person receiving notice under paragraph (i) may send a person to superintend the work, and the telecommunication authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes between telecommunication authority and local authorities.

19. If any dispute arises between the telecommunication authority and a local authority in consequence of the Mayor or Chairman of the local authority refusing the permission referred to in paragraph (iii) of the proviso to section 15, or prescribing any condition under section 16, or in

20. (1) If any person resists or obstructs, or threatens or attempts to resist or obstruct, the exercise of the powers conferred on the telecommunication authority by section 15, he shall be deemed to have committed an offence under section 183 of the Penal Code.

Resistance, &c., to exercise of lawful powers of telecommunication authority.

(2) If any dispute arises concerning the sufficiency of the compensation to be paid under paragraph (iv) of the proviso to section 15, it shall, on application for that purpose by either of the disputing parties to the Primary Court within the jurisdiction of which the property is situate, be summarily determined by that court.

(3) If any dispute arises as to the persons entitled to receive compensation or as to the proportions in which the persons interested are entitled to share in it, the telecommunication authority may pay into the Primary Court within the Jurisdiction of which the property is situate such amount as he deems sufficient, or where all the disputing parties have in writing admitted the amount tendered to be sufficient, or the amount has been determined under subsection (2), the amount so admitted or tendered ; and the court, after giving notice to the parties and hearing such of them as desire to be heard, shall summarily determine the persons entitled to receive the compensation, or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(4) The cost of all legal proceedings under this section shall be determined by the Primary Court. The telecommunication authority shall not be liable to pay any costs unless there is a dispute concerning the sufficiency of the compensation to be paid under paragraph (iv) of the proviso to

section 15, and in such case the telecommunication authority shall be liable to pay costs should the amount of compensation determined by the Primary Court be more than the amount deemed sufficient by the telecommunication authority, unless the court shall be of opinion that the claim of the applicant was so extravagant, or that he was so negligent in putting his claim before the telecommunication authority, that some deduction from his costs should be made, or that he should pay part of the costs of the telecommunication authority.

(5) The Primary Court to which any dispute is referred under the preceding provisions of this section may determine such dispute notwithstanding any limitations imposed on the jurisdiction of a Primary Court by any other law.

(6) Every determination of a Primary Court under this section shall be final;

Provided that nothing in this subsection shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telecommunication authority from the person who has received such compensation.

Right to request removal or alteration of telegraph line or post.

21. (1) Where, under the provisions of this Ordinance, a telegraph line or post has been placed by the telecommunication authority under, over, along, across, in, or upon any property, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or Convenient that the telegraph line or post should be removed to any other part of that property or to a higher or lower level or altered in form, he may require the telecommunication authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid to such person under paragraph (iv) of the proviso to section 15, he shall, when making the requisition, tender to the telecommunication authority an amount sufficient to defray the expenses of the removal or alteration,

(2) If the telecommunication authority omits to comply with the requisition within a reasonable time, the person making it may apply to the Primary Court within the jurisdiction of which the property is situate to order the removal or alteration.

(3) A Primary Court receiving an application under subsection (2) may in its discretion reject such application or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level, or for the alteration of its form. Every order so made shall be final.

(D) PROVISIONS APPLICABLE TO ALL PROPERTY

22. In any case where a telegraph line has been placed under, over, along, or across any immovable property, no person who, subsequent to the date on which such telegraph line has been so placed, plants any tree or shrub which may be likely in the future to injure, impede, or interfere with such telegraph line, shall be entitled to receive any compensation should such tree or shrub or any branch thereof be cut down under the provisions of section 15.

Planting of trees or shrubs likely to injure telegraph line.

23. Every telegraph line or post placed before the passing of this Ordinance under, over, along, across, in, or upon any property for the purposes of a telegraph or wireless telegraph established or maintained by the Government, shall be deemed to have been placed in the exercise of the powers conferred by, and after observance of all the requirements of, this Ordinance.

Provisions of Ordinance extended to telegraph lines and posts established before coming into operation of Ordinance.

(E) STAMPS

24. (1) The Minister with the approval of the President shall cause stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Ordinance and of the rules and regulations made thereunder.

Stamps.

(2) The supply, sale and use of stamps provided under subsection (1) shall be subject to such rules as may be made by the Minister in that behalf.

(3) All stamps provided under subsection (1) shall be deemed to be stamps issued by the Government for the purposes of revenue within the meaning of the Penal Code.

(F) LIABILITY OF GOVERNMENT

Government not responsible for loss or damage.

25. The Government shall not be responsible for any loss or damage which may occur in consequence of any telecommunication officer failing in his duty with respect to the receipt, transmission, or delivery of any message ; and no such officer shall be responsible for any such loss or damage unless he caused such loss or damage fraudulently or by his wilful act or default.

(G) LIABILITY FOR DAMAGE

Liability for damage to telegraph line.

26. (1) Every person who, by himself or by his agent, does any act which causes damage to any telegraph line, cable, or post maintained by the Government, shall be liable to pay the Director such expenses as the Director may incur in repairing the said damage.

(2) If any person who is liable in any sum of money under subsection (1) does not pay that sum of money within such period as may be notified in that behalf to that person in writing by the Director, the Director may issue a certificate containing particulars of that sum of money and the name and last known place of business or residence of that person to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon that person before him to show cause why further proceedings for the recovery of the sum of money should not be taken against him, and in default of sufficient cause being shown, the sum of money shall be deemed to be a fine imposed by a sentence of the Magistrate on such person for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which,

by the provisions of that subsection, he could have made at the time of imposing such sentence:

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine, or decide the correctness of the statement in the certificate regarding the sum of money due.

PART IV

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

27. (1) Every person who in contravention of this Ordinance or any Order, rule or regulation made thereunder—

Penalty for establishing a station or working an apparatus without a licence.

- (a) imports into Sri Lanka any wireless telegraphy apparatus; or
- (b) possesses any complete wireless set for any purpose whatsoever; or
- (c) possesses any wireless telegraphy apparatus, other than a complete wireless set referred to in paragraph (b), for the purpose of sale in the course of his business in Sri Lanka or for the purpose of effecting repairs for fee or reward ; or
- (d) in the course of his business in Sri Lanka, deals in, sells, offers for sale, or demonstrates or causes to be demonstrated with a view to a sale, any wireless telegraphy apparatus, or effects any repairs to any wireless telegraphy apparatus for fee or reward ; or
- (e) installs, establishes, maintains or works or causes to be worked any telegraph or complete wireless set or wireless telegraph in any premises or vehicle in Sri Lanka, in any part of the territorial waters thereof, or in any ship or aircraft registered in Sri Lanka,

shall be guilty of an offence, punishable with a fine not exceeding one thousand rupees, and with a further fine not

exceeding five hundred rupees for every week during which such offence continues, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding six months, and the apparatus or installation in respect of which any such offence is committed shall be liable to confiscation:

Provided, however, that where the offence consists of the breach of any condition relating to possession or of possession without a licence duly issued in that behalf, the offence shall be punishable with a fine not exceeding two hundred and fifty rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding six weeks, and the apparatus or installation in respect of which any such offence is committed shall be liable to confiscation;

Provided further that where the offence consists of the breach of any regulation or condition relating to a licence by a servant of the person to whom the licence was issued, the offence shall be punishable with a fine not exceeding two hundred and fifty rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding six months.

(2) Upon the confiscation of any apparatus or installation under subsection (1) it shall be deemed for all purposes to be the property of the telecommunication authority.

(3) No prosecution for an offence under this section shall be instituted except by, or except with the written consent of, the telecommunication authority.

Magistrate to grant search warrant in certain cases.

28. (1) If a Magistrate is satisfied by information on oath that there is reasonable ground for believing that, in contravention of the provisions of this Ordinance, or any Order, rule or regulation made thereunder, a telegraph or a complete wireless set or wireless telegraph has been installed, or established, or is maintained or worked, or that any wireless telegraphy apparatus has been imported, sold, or offered for sale, or is held in possession with a view to sale or to effecting repairs for fee or reward, or that

a complete wireless set is held in possession for any purpose whatsoever, in any place or in any vehicle or on board any ship or aircraft within his jurisdiction, such Magistrate may grant a search warrant to any police officer authorizing that officer to enter and inspect the place, vehicle, ship, or aircraft, and to seize any apparatus which appears to that officer to be used or intended to be used for telegraphy or wireless telegraphy or any wireless telegraphy apparatus which appears to him to have been imported, sold, offered for sale or held in possession for the aforesaid purposes.

(2) If a Magistrate is satisfied by information on oath that there is reasonable ground for believing that, in contravention of the provisions of this Ordinance or any rule or regulation made thereunder, any action has been taken or is likely to be taken in any place, vehicle, ship or aircraft within his jurisdiction, for the unlawful interception or the unlawful recording of a telephone conversation between any two persons or for the unlawful communication of such telephone conversation between such persons to a third person, such Magistrate may grant a search warrant to any police officer authorizing that officer to enter and inspect such place, vehicle, ship or aircraft and to seize any apparatus of any of the following descriptions ;—

- (a) any unauthorized cables and any unauthorized telephone connections;
- (b) any unauthorized wire connections to existing telephone apparatus, wires and cables of the Government;
- (c) any unauthorized apparatus for interception or recording of telephone conversations at any point on the telecommunication system-

29. Every person who, knowing or having reason to believe that a telegraph or wireless telegraph has been installed or established or is maintained or worked in contravention of this Ordinance, or any Order, rule or regulation made thereunder—

- (a) transmits or receives any message by such telegraph or wireless telegraph, or

[§ 2, 10 of 1970.]

Penalty for using, &c., telegraph or wireless telegraph established, &c., without or contrary to the conditions of a licence.

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- (b) performs any service incidental thereto, or
- (c) delivers any message for transmission by such telegraph or wireless telegraph, or
- (d) accepts delivery of any message sent thereby,

shall be guilty of an offence punishable with a fine not exceeding fifty rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding three months.

Penalty for intruding into a telegraph office or obstructing telecommunication officer.

30. Every person who—

- (a) without permission of a competent authority, enters the signal room of a telegraph office of the Government or of a person licensed under this Ordinance ; or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any regulation or notice prohibiting such entry ; or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein; or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

shall be guilty of an offence punishable with a fine not exceeding one hundred rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding three months.

Penalty for intrusion, &c., with intent to learn contents of message.

31. Every person who does any of the acts mentioned in section 30 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Ordinance, shall be guilty of an offence punishable with imprisonment of either description for a term not exceeding six months in addition to the fine prescribed by section 30.

32. (1) Every person who, with the intention of—

- (a) preventing or obstructing the transmission or delivery of any message; or
- (b) intercepting or acquainting himself with the contents of any message; or
- (c) transmitting any message which he has no authority to transmit; or

committing mischief,

damages, removes, tampers with, or touches any battery, machinery, telegraph line, post or other thing whatsoever being part of or used in or about any telegraph or wireless telegraph or in the working thereof, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

(2) Every person who climbs up a telegraph post or attaches anything to any telegraph line, post or other apparatus without authority, shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

33. (1) Every holder of a licence under this Ordinance and every telecommunication officer or other person having official duties connected with any office used as a telegraph office, who—

Penalty for altering, detaining, or divulging contents of message.

- (a) wilfully secretes, makes away with, or alters, any message which he has received for transmission or delivery; or
- (b) wilfully, and otherwise than in obedience to an order of the President or of an officer specially authorized by the President to make the order, omits to transmit, or intercepts, or detains any message or any part thereof; or
- (c) otherwise than in pursuance of his official duty or in obedience to the direction of a competent court,

discloses the contents or any part of the contents of any message to any person not entitled to receive such message; or

- (d) divulges the purport of any telegraphic or wireless telegraphic signal to any person not entitled to become acquainted therewith; or
- (e) makes any use whatsoever of any message, (other than time signals, musical or other programmes and messages for general reception) received by means of any wireless telegraphy apparatus; or
- (f) causes or permits any person not employed in the office, or otherwise entitled so to do, to become acquainted with the contents or any part of the contents of any message,

shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

(2) Notwithstanding anything contained in subsection (1), every person who, without the general or specific consent of the claimants to the copyright in any message transmitted for general reception, reproduces or publishes or causes to be reproduced or published in the press or disseminates or causes to be disseminated by other similar means such copyright message, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

(3) Nothing contained in this section shall preclude a licensee from permitting any person to listen to any message broadcast for general reception.

Transmission of unpaid messages prohibited.

34. Every telecommunication officer, or other person having official duties connected with any office used as a telegraph office, who transmits or causes to be transmitted by telegraph or wireless telegraph or delivers or causes to be delivered any message on which the charge

prescribed by the Government or by a person licensed under this Ordinance, as the case may be, has not been paid, thereby intending to defraud the Government or that person, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

35. Every telecommunication officer, or other person having official duties connected with any office used as a telegraph office, who is guilty of any act of drunkenness, carelessness, or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, and every telecommunication officer who delays or loiters in the transmission or delivery of any message, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees or with imprisonment of either description for a term not exceeding three months, or with both such fine and such imprisonment.

Penalty for misconduct of a telecommunication officer.

36. Every person who transmits or causes to be transmitted or tenders or causes to be tendered to any telecommunication officer for transmission by telegraph or wireless telegraph or for delivery a message which he knows to be false or fabricated, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment. The burden of proving that he did not know any message to be false or fabricated shall lie on the person charged under this section.

Penalty for sending false or fabricated message.

37. Every person who by himself or by his agent or servant tenders for transmission at any telegraph office any message of an indecent, obscene, seditious, scurrilous, threatening, or grossly offensive character, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees or with imprisonment of either description for a term not exceeding six months, or with both such fine and such imprisonment.

Penalty for tendering obscene or indecent or seditious message.

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Penalty for causing annoyance by telephone calls and for unlawfully listening in to telephone conversations. [§ 3,10 of 1970.]

38. (1) Every person who persistently makes telephone calls without reasonable excuse and for the purpose of causing annoyance or inconvenience to any telecommunication officer or any other person, shall be guilty of an offence, and shall, upon conviction after summary trial by 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 such imprisonment.

(2) It shall be lawful for a telecommunication officer to interrupt a call of the nature referred to in subsection (1) or to refuse to allow such a call to be made.

[§ 3.10 of 1970.]

(3) Every person who unlawfully and wilfully listens in to a telephone conversation between two other persons shall be guilty of an offence and shall, upon conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and such imprisonment.

Penalty for retaining message delivered by mistake.

39. Every person who fraudulently retains, or wilfully secretes, or makes away with or detains, a message which ought to have been delivered to some other person, or, being required by a telecommunication officer to deliver up any such message, neglects or refuses to do so, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding two years, or with both such fine and such imprisonment.

Bribery.

40. Every telecommunication officer shall be deemed to be a public servant within the meaning of sections 158, 159, 160, 161 and 162 of the Penal Code; and in the definition of "legal remuneration" contained in the said section 158 the word "Government" shall be deemed to include any person licensed under this Ordinance by whom any such telecommunication officer is employed.

Penalty for negligently injuring telegraph line.

41. Every person who, rashly or negligently, or without lawful excuse, the burden of proving which shall lie on him, does any act which causes or is likely to

cause damage or injury to any telegraph line, cable, or post, or hinder or delay the transmission of any message by any telegraph or wireless telegraph, shall be guilty of an offence punishable with a fine not exceeding fifty rupees, and, in default of payment of such fine, with imprisonment of either description for a term not exceeding three months.

42. Whoever attempts to commit any offence punishable under this Ordinance shall be guilty of an offence and shall be punishable with the punishment herein provided for the offence.

Penalty for attempting to commit offences.

42A. (1) Whoever has in his possession, custody or control any telegraph wire and is unable to establish that such telegraph wire has been acquired lawfully, shall be guilty of an offence under this Ordinance.

Offences relating to telegraph wire. [§ 2, Law 17 of 1974.]

"Telegraph wire" for the purposes of this section means any copper wire the gauge of which as measured in terms of pounds per mile is between four and three hundred.

[§ 2,67 of 1979.]

(2) A certificate purporting to be under the hand of the Superintending Telecommunication Engineer certifying that any telegraph wire in question is of the description referred to in subsection (1) shall be admissible in a court of law and shall be prima facie proof of the truth of the statements made therein.

42B. Any person who—

- (a) attempts to commit or does any act preparatory to the commission of, or
- (b) aids or abets another person to commit, or
- (c) conspires with another person, in the commission of,

Attempts to commit offence under section 42A. [§ 2, Law 17 of 1974.]

an offence under section 42A shall himself be guilty of that offence under this Ordinance.

42C. (1) Every person who is guilty of an offence under section 42A or 42B shall be punished with imprisonment for a term not exceeding three years or with a fine not exceeding two thousand rupees or with both such imprisonment and such fine.

Penalty. [§2, Law 17 of

[§ 3, 67 of 1979.]

(2) The court may on the conviction of any person for any offence under section 42A or 42B, in addition to any other penalty that it shall impose under subsection (1), make order declaring that any vehicle used in or in connexion with the commission of the offence, shall be forfeited to the Republic.

or regulation made thereunder 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 sum so due.

General penalties.

43. Where no penalty is specially provided for the breach of any rule or regulation made under this Ordinance, whoever commits any breach of such rule or regulation shall be guilty of an offence, and shall, upon conviction after summary trial by 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 such imprisonment.

47. If any person refuses to pay any sum due from him under this Ordinance or any rule or regulation made thereunder in respect of any message, the sum so due may, on application made by a telecommunication officer authorized in that behalf by the written order of the telecommunication authority, be recovered for the use of the State 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 telecommunication authority may further direct that any other message, 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.

Procedure for recovery of charges.

[§ 4, 10 of 1970.]

Trial of offences.

44. 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 by the High Court;

48. In every proceeding for the recovery of any sum alleged to be due under this Ordinance or any rule or regulation made thereunder in respect of a message—

Proof of refusal, &c., of message.

Provided that if the Attorney-General certifies that any such offence may be tried by 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.

(a) the production of a statement signed by a telecommunication officer that the message has been refused, or that the addressee is dead or cannot be found, shall be prima facie evidence of the fact so stated ; and

(b) the person from whom the message purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

PART V

SUPPLEMENTARY PROVISIONS

Liability of addressee to pay charges.

45. The addressee of any message, on which any sum chargeable under this Ordinance or any rule or regulation made thereunder is due, shall, unless he forthwith returns it unopened, be bound to pay the sum so chargeable on his accepting delivery of the message.

49. The production of a statement signed by a telecommunication officer that any sum specified in such statement is due in respect of any message to the telecommunication authority of Sri Lanka or to the telecommunication authority of any foreign country shall be prima facie evidence that the sum specified as aforesaid is so due.

Proof of sum due.

Liability of sender to pay charges.

46. If any message on which any sum chargeable under this Ordinance or any rule

Interpretation.

50. In this Ordinance, unless the context otherwise requires—

" complete wireless set" means any apparatus, which, in the opinion of the telecommunication authority, is capable in itself of transmitting and receiving wireless signals or of transmitting or receiving wireless signals with or without the addition of aerials, valves, power supply, telephones, loud-speakers, or equivalent devices;

" Director " means the person for the time being holding the office of Director of Telecommunications;

" local authority" includes Municipal Councils, Urban Councils, Town Councils and Village Councils;

" message " means a communication of any nature whatsoever sent by telegraph and wireless telegraph or by telegraph or wireless telegraph, or given to a telegraph officer to be sent by telegraph and wireless telegraph or by telegraph or wireless telegraph or to be delivered and includes any signal or combination of signals used for the broadcasting of music, conversations, speeches, lectures, stage performances, writing, facsimiles, images or pictures and the like;

" person or persons " includes any limited liability company or corporation, and any local authority;

" post" means a post, pole, bracket, standard, stay, strut, or other contrivance for carrying, suspending, or supporting a telegraph line;

" prescribed " means prescribed by rules or regulations made under this Ordinance;

" telecommunication " means the making, transmitting or receiving by means of electricity or magnetism or any mechanism, of any telegraphic or

telephonic or other communication of signs, signals, writing, facsimiles, images, pictures, or sounds of any kind with or without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus and includes any system or process of electrical signalling;

" telecommunication authority" means the Director of Telecommunications, and includes any officer empowered by him to perform all or any of the functions of the telecommunication authority under this Ordinance or the rules and regulations made thereunder;

" telecommunication officer " means any person employed either permanently or temporarily in connexion with a telegraph or wireless telegraph established, maintained or worked—

(a) by the Government; or

(b) by a person licensed under this Ordinance or by such of the persons or classes of persons licensed under this Ordinance as may be prescribed, other than a person licensed to receive messages by means of wireless telegraphy or to transmit and receive messages for experimental purposes;

" telegraph " means an electric, magnetic, or mechanical telegraph, including appliances, wires and apparatus or any combination thereof for making and transmitting or receiving telegraphic, telephonic or other communications, writing, facsimiles, images, pictures or sounds by means of electricity or magnetism or any mechanism or by any agency of a like nature, with the aid of wires or other continuous electrical conductors connecting the points from and at which the messages or other communications are sent and received, and includes the telephone;

" telegraph line " means a wire or wires used for the purpose of a telegraph or a wireless telegraph, with any casing, coating, tube, or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing, insulating, protecting, or earthing the same;

" telegraph office " means any place at which a telegraph or wireless telegraph is installed and worked and includes any place at which any work incidental to or connected with the acceptance, transmission or delivery of messages is carried on;

" telegraphy " means the working or use of a telegraph;

" wireless telegraphy " means any system of communication by wireless telegraph;

" wireless telegraph " means a telegraph, worked without the aid of any wire or other continuous electrical conductor connecting the points from and at which the messages or

other communications are sent and received ;

" wireless telegraphy apparatus " means any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article which in the opinion of the telecommunication authority is a wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially designed or adapted for such purpose, nor any article which in the opinion of the telecommunication authority is not a wireless telegraphy apparatus;

" working a wireless telegraph " shall include the reception of messages by means of wires connected to a complete wireless set or to wireless telegraphy apparatus used for the purpose of relaying messages received.

CHAPTER 522

THOROUGHFARES

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO PUBLIC THOROUGHFARES IN SRI LANKA.

- Nos.10 of 1861,
- 3 of 1883,
- 31 of 1884,
- 17 of 1885,
- 10 of 1887,
- 10 of 1902,
- 25 of 1906,
- 23 of 1910,
- 6 of 1913,
- 5 of 1915,
- 22 of 1918,
- 9 of 1925,
- 18 of 1927,
- 22 of 1928,
- 13 of 1929,
- 11 of 1932,
- 11 of 1936,
- 12 of 1940,
- 58 of 1942,
- 50 of 1943,
- 19 of 1944,
- 3 of 1946,
- 18 of 1947,

Acts

- Nos.11 of 1951,
- 28 of 1953,
- 46 of 1953,

Law

- No. 37 of 1973.

[1st January, 1862.]

Short title. **1.** This Ordinance may be cited as the Thoroughfares Ordinance.

Council or Town Council, unless it is a principal thoroughfare within the meaning of this Ordinance ; or

Application of Ordinance, **2.** (1) Subject as hereinafter provided, this Ordinance shall apply to and in relation to all roads and thoroughfares in Sri Lanka:

(c) to any road which is for the time being maintained by a Village Council.

Provided, however, that nothing in this Ordinance shall apply—

(2) Where any road is maintained by any department, other than the Department of Highways or a Department of a Director of Works, the Minister may by Order published in the Gazette declare that, for the purposes of the application of this Ordinance with respect to such road, this Ordinance or any specified provision thereof shall have effect subject to the modification that the powers or functions conferred by this Ordinance or by such specified provision shall be exercised and discharged by specified officers of such department. [§ 2, Law 37 of 1973.]

(a) to any street (as defined in the "Municipal Councils Ordinance) within the administrative limits of any Municipal Council, unless it is by Order made by the Minister and published in the Gazette withdrawn from the jurisdiction of the Council; or

(2) Where any road is maintained by any department, other than the Department of Highways or a Department of a Director of Works, the Minister may by Order published in the Gazette declare that, for the purposes of the application of this Ordinance with respect to such road, this Ordinance or any specified provision thereof shall have effect subject to the modification that the powers or functions conferred by this Ordinance or by such specified provision shall be exercised and discharged by specified officers of such department.

(b) to any street (as defined in the Urban Councils Ordinance or in the Town Councils Ordinance) within the administrative limits of any Urban

3. All notices required to be given by this Ordinance shall be in the Sinhala and Tamil languages ; and every notice addressed Language of notices, and how served.

to any person may be served either personally upon such party, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Appointment and powers, &c., of officers and servants. [§ 3, Law 37 of 1973.]

4. (1) There may be appointed all such officers and servants as may be necessary for the purposes of this Ordinance.

(2) Subject to the general direction and control of the Secretary to the Ministry charged with the subject of Highways, the Director of Works of each region and the Executive Engineer of each division shall be responsible for the administration of this Ordinance in his region or division.

(3) In this Ordinance—

(a) " region", when used with reference to a Director of Works or a Superintending Engineer, means the area for which he is appointed ;

(b) " division ", when used with reference to an Executive Engineer, means the area for which he is appointed.

GENERAL PROVISIONS

Minister to declare principal thoroughfares.

5. It shall be lawful for the Minister by Order to declare that any road, canal, or river shall be deemed to be a principal thoroughfare for the purposes of this Ordinance, and such road, canal, or river shall from the time specified in such Order be deemed to be a principal thoroughfare accordingly:

Provided that all roads, rivers, lakes, and canals which have been declared principal roads, rivers, lakes, or canals under Ordinance No. 8 of 1848*, shall be deemed principal thoroughfares for the purposes of this Ordinance.

Minister may order road to be stopped up or diverted, and substitute shorter or more commodious course, and order road to be widened and enlarged.

6. It shall be lawful for the Minister, and on the application of the Director, to order that any existing road or canal be stopped up, diverted, or turned, and to substitute some shorter or more commodious course for any road or canal so diverted or turned, as the public advantage may require; and it shall also be lawful for the said Minister to order any

* Repealed by Ordinance No. 10 of 1861.

new road to be opened, or any road to be widened and enlarged, in such manner as he shall think fit; and if in the execution of any such order it shall become necessary to take possession for the public use of the land of any person, it shall be lawful for the Director or Superintending Engineer, and he is hereby empowered, subject to the approval of the Minister, to make an agreement on behalf of the Government with the owner for the recompense to be made for such land, and for any building, tree, or fence thereon, either by allowing him to possess the ground, or part of the ground, of the former road, or by the grant of other State land in exchange, or by payment in money; and the land of any person taken possession of by the Director or the Superintending Engineer in pursuance of such agreement shall vest in the Government, without any formal transfer thereof, and the certificate of the Director or Superintending Engineer that any person has been allowed by the Minister to possess any part of the ground of the former road or other State land, together with a survey thereof, shall be a sufficient title of the right of such person to the same ; and if the Director or Superintending Engineer cannot agree with such owner as to the recompense to be made, or if the owner cannot be found, or if it be not thought advisable to enter into any such agreement, then proceedings may be taken for obtaining possession of such land, and for compensating the owner, in the manner prescribed by any enactment in force at the time providing means for taking private lands for public uses.

Mode of ascertaining compensation to be given to owner of land taken for any such purpose.

7. (1) It shall be lawful for the Director or the Superintending Engineer, on behalf of the Government, to make and enter into, perform and execute, and compel the performance and execution of all such contracts and agreements, matters and things, as may be necessary for the purposes of this Ordinance.

Contracts and agreements.

(2) The Director or the Superintending Engineer on behalf of the Government may, subject to the provisions of any special enactment in that behalf and subject to the approval of the Minister, enter into agreement with any person or body of

persons or any local authority constituted by law (hereinafter referred to as the "promoters") to authorize such promoters, for the purposes of any system of tramways, of any supply of gas, water, or any other public service, or any private enterprise or object, to make such user of any road or thoroughfare to which this Ordinance applies, and to execute all such works and to set up or to maintain all such erections or plants therein as may appear to the Director or the Superintending Engineer to be necessary for the purposes of the effective establishment or maintenance or the modification or development of such public service or such enterprise or object.

EXECUTION OF WORKS

Management of works on roads and other powers to be veiled in Director. [§ 4, Law 37 of 1973.]

8. The direction and control of all work to be undertaken under this Ordinance upon any road shall be vested in the Director.

Proper officers empowered to enter upon lands for repair. &c., of thoroughfares.

9. It shall be lawful for the officer in charge of any work to which this Ordinance is applicable, and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper carriages and animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Ordinance.

Officer may enter any land with workmen, &c., and take materials.

10. It shall be lawful for any such officer, with the servants, workmen, and labourers employed by or under him, at all reasonable times and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing,

measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended thoroughfare ; or of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith ; or for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the ground of any person, without being deemed a trespasser :

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn, or any inclosed garden, plantation, field, or wood without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands, or common, or abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure the same;

Provided also that reasonable compensation for all materials so taken, and for the damage done by the getting and carrying away the same, shall be made to the owner thereof; and

Provided further that such officer shall rail or fence off any quarries or pits from which any such materials shall be taken, so that the same shall not be dangerous to any person or animal.

11. It shall be lawful for any such officer when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such

Officer may erect temporary building on any land;

and keep cattle, &c.

officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and to keep duly tethered and stabled all such oxen, horses, and animals as may be employed by him upon any lands near or adjacent thereto, and to continue so to keep the said oxen, horses, and animals on such lands and for such time as may be necessary :

Provided that no such buildings shall be erected, nor any such oxen, horses, or other animals kept on any land which shall be under cultivation, nor where there are neighbouring waste lands or common or abandoned grounds available for the purpose; and

Provided further that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

Officer may throw rubbish upon any land.

12. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall and may be lawful for any such officer to throw upon any lands adjacent or near thereto such earth, rubbish, or materials as it shall or may be necessary to remove from the place of any such work.

Officer may make temporary road.

13. It shall be lawful for any such officer to make a road through the grounds adjacent or near to any existing or intended thoroughfare during the execution of any work thereupon or in any way connected therewith ; provided such road shall not run over any ground whereon any building stands, nor over an inclosed garden or yard.

Officer may cut trees.

14. It shall be lawful for any such officer to cut and remove, and place upon any ground adjacent or near thereto, all trees, bushes, or shrubs, and all leaves or branches or roots of trees that shall grow in or overhang any thoroughfare or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all

such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots.

15. It shall be lawful for any such officer to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare, whenever to him it shall appear necessary, and the owners or occupiers of land adjoining such fences, hedges, ditches, drains, or banks shall, and they are hereby required to keep the same in good and substantial repair and order.

Officer may put up fences.

16. Every such officer shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses, and also to make and lay such trunks, tunnels, plats, or bridges as he shall deem necessary for the protection, preservation, improvement, repair, or construction of any road or canal in and through any lands or grounds adjoining or lying near to such road or canal or intended road or canal.

Officer may make and keep open ditches, &c., and lay trunks, &c.

17. Every such officer shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any road, and to allow the same to remain there during the time such road is under repair, and for such time before the repairs are commenced, and after the repairs are completed, as may be necessary for facilitating the making of such repairs, or for preventing damage to such recently repaired road, but he shall take due and reasonable precautions for preventing danger or injury to persons passing along such road.

Officer may lay stones, &c., on road.

18. Every person who shall sustain any loss or damage by reason of the exercise of any of the powers and authorities conferred by this Ordinance upon officers in charge of works to which it is applicable shall be entitled to receive compensation for the same ; provided he shall make application in that behalf to the Superintending Engineer or the Executive Engineer at any time before the expiration of three months after the act, matter, or thing in respect of which such damage shall be alleged to have been done, and if he shall fail to make such application within the aforesaid period his claim to compensation for the alleged injury may be disallowed, and he shall be barred

Compensation for injury to property by authorized officers.

Reference to arbitration.

from recovering the same; and the amount of compensation, if the same cannot be agreed to, may be decided by arbitration, the Superintending Engineer naming one arbitrator and the person claiming compensation another. If the two arbitrators cannot agree they shall appoint an umpire, and the award of the arbitrators or umpire, to be given in terms of the reference to be agreed to by the parties, shall be final.

shall refuse fully to inform such Engineer, upon application, in whose possession they are; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by such Engineer, every such occupier, alleged owner, and person so refusing shall be liable to a fine not exceeding fifty rupees ; and it shall be lawful for such Engineer, or any person thereto authorized by him, to enter upon any premises upon which any such building, inclosure, or encroachment shall have been raised or made as aforesaid, and upon any other premises whatsoever which it may be necessary to enter for the purposes of the survey hereinafter mentioned, and to make such survey of all such premises as may be necessary to enable such Engineer to ascertain whether such building or inclosure is an encroachment upon any thoroughfare, or upon any land adjoining thereto and belonging to the State.

and make survey of premises.

Vexatious conduct of officer.

19. Every person acting under the authority of this Ordinance who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence or give any uncalled-for and vexatious annoyance, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding fifty rupees.

ENCROACHMENTS

Superintending or Executive Engineer may in certain cases demand production of title deeds;

20. And whereas the line of many thoroughfares has been altered to suit the purposes of private parties, and many obstructions and encroachments have been made in and upon the said thoroughfares to the great inconvenience and injury of the public: It is enacted that whenever it shall appear to the Superintending or Executive Engineer that any building, inclosure, or obstruction shall have been raised or made in any thoroughfare, or on any waste or other ground immediately adjoining thereto and belonging to the State, it shall be lawful for such Engineer to demand in writing of the person claiming to be the owner of the premises on which such building, inclosure, or obstruction shall have been raised or made, the production of every deed, document, and instrument upon which such person founds such claim; and if the occupier of such premises, not being himself the alleged owner shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by such Engineer, or if such alleged owner shall refuse to produce within ten days after being requested so to do every deed, document, and instrument upon which he founds his claim to the said premises, and which shall be in his possession, or, if any such deed, document, or instrument shall not be in his possession,

21. The deeds, documents, and instruments in section 20 mentioned shall be produced on the premises to which the same may relate, or at such other place as the Superintending or Executive Engineer may require and the power of demanding the production thereof in section 20 given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary; and every person refusing or failing to permit such examination of any such deed, document, or instrument to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to any fine not exceeding fifty rupees.

Demand of production of deed to include power of examination.

22. It shall not be lawful for any person to commence any building, wall, or fence along any thoroughfare, or to place any temporary fence or inclosure on any such thoroughfare, for commencing or repairing any such building or wall, without giving one calendar month's previous notice in writing to the Executive Engineer of the district within which such building, wall, fence, or inclosure is about to be commenced, and any person neglecting to give such notice, or to remove the said building, wall, or fence on being required in

Notice of intended building along a thoroughfare.

writing to do so by the Executive Engineer, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for each day he suffers or allows such building, wall, or fence to remain after being required to remove the same as aforesaid ; and it shall be lawful for the Executive Engineer with the sanction of the Superintending Engineer, to cause any building, wall, fence, or inclosure, commenced or erected without such notice, to be removed, and to recover the costs of such removal in the manner provided in section 33 for the recovery of the costs therein mentioned:

Provided that nothing herein contained shall be deemed to deprive the Superintending or Executive Engineer of the power hereinafter conferred on them of removing any such building, wall, fence, or inclosure, if the same be ultimately discovered to be an encroachment, notwithstanding that no proceeding shall have been taken by them on the said notice.

23. Nothing herein contained shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, nor to prevent the Executive Engineer from granting his licence to the inhabitants for the erecting of temporary fences and inclosures, in order to the building, pulling down, or repairing of their houses and other buildings, or of temporary decorations, within such province or district, provided the length and breadth of such inclosures be described in such licence, and that there be sufficient room for carriages and carts or boats, to pass ;

Provided that the person obtaining such licence shall immediately after sunset, during all the time that the inclosure shall continue, if so required by the Executive Engineer in such licence, place and keep a sufficient light upon the premises till daybreak, and any person removing or extinguishing such light during such time shall be liable to a fine not exceeding ten rupees.

24. (1) It shall not be lawful for any person, at any time after the 15th day of February, 1943—

Building limits along roads.

(a) except under the authority of a licence granted by the Executive Engineer of the district, to erect any building, boundary wall or gateway within a limit, (hereinafter referred to as the " building limit "), of twenty-five feet from the centre of any road in charge of the Department of Highways or a Department of a Director of Works and used or intended for vehicular traffic ; or

(b) except under the authority of a licence granted by the Executive Engineer of the district, to re-erect, or to make any addition to, any building, boundary wall or gateway within the building limit of any such road;

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to apply to any repairs effected in any building, boundary wall or gateway existing on the date aforesaid.

For the purposes of this subsection, " repairs " shall not be deemed to include any work of re-erection or reconstruction or the addition of any new part.

(2) (a) No licence for the erection of any building, boundary wall or gateway shall be granted under subsection (1) by the Executive Engineer unless he is satisfied that the foregoing prohibition against the erection of any building, wall or gateway within the building limit will cause serious hardship to the owner of the land on which such building, wall or gateway is to be erected, and unless the written consent of the Director to the grant of the licence is obtained. The Director shall not give such consent unless he is satisfied, having regard to the width of the road, the visibility available for traffic and the proper upkeep of the road, that the enforcement of the aforesaid prohibition is not for the time being essential.

(b) It shall be a condition of any licence granted by the Executive Engineer under subsection (1) for the erection of any

Where the erecting of temporary fences and inclosures is allowed.

building, boundary wall or gateway within the building limit, that no compensation shall be payable—

(i) in respect of such building, wall or gateway or part thereof within such limit if possession for the public use is taken at any time under section 6 of this Ordinance of the land on which such building, wall or gateway is situated, or if such land is acquired under the Land Acquisition Act, or

(ii) after the severance or removal of such building, wall or gateway or part thereof within such limit, in respect of any improvement or adaptation of the remaining part of such building, wall or gateway for any purpose whatsoever.

(c) It shall be a condition of any licence granted by the Executive Engineer under subsection (1) for the re-erection of, or for any addition to, any building, boundary wall or gateway that if possession for the public use is taken at any time, under section 6 of this Ordinance, of the land on which such building, wall or gateway is situated, or if such land is acquired under the Land Acquisition Act, the compensation payable in respect of such building, wall or gateway shall be determined in accordance with the provisions of section 27.

(3) (a) Full particulars of every licence granted under subsection (1), including particulars of the condition set out in subsection (2) and of the land and the building, boundary wall or gateway to which the condition relates and the value thereof shall be entered by the Executive Engineer in a register to be kept for the purpose at his office; and the Executive Engineer shall cause a certified copy of every such entry to be registered in the office of the Registrar of Lands of the place in which such land is situate. The Registrar of Lands shall register all such copies free of any charge or duty.

(b) Upon the registration of any entry under this subsection, the condition of the licence set out in such entry shall be binding upon the land and the building, wall or

gateway affected thereby in accordance with the tenor of such condition, into whosoever ownership or possession the land or building or wall or gateway may at any time pass.

(c) Every register kept under paragraph (a) at the office of the Executive Engineer shall be made available for inspection to any person interested at any time when the office is open for the transaction of business.

(d) The provisions of section 2 of the Prevention of Frauds Ordinance shall not apply in the case of any entry or any copy of any entry referred to in this subsection.

(4) Subject to the condition referred to in subsection (2), any person who is otherwise entitled to re-erect or make any addition to any building, boundary wall or gateway shall be entitled to a licence to re-erect or make such addition to such building, wall or gateway within the building limit:

Provided that no part of the building, wall or gateway so re-erected or added to shall, upon such re-erection or addition, extend nearer to the centre of the road than it so extended in its original condition.

(5) The expression "re-erect", with reference to a building, includes the restoration of any wall forming part of the building or of any support to the building which has been demolished or otherwise destroyed to or within a distance of five feet from the ground, but does not include any operation which, in the opinion of the Executive Engineer, may reasonably be considered to be a repair to the wall or support.

25. The Minister may, upon the Modification recommendation of the Director, by of building Notification published in the Gazette, modify or extend the building limit in respect of any road or any part of any road in charge of the Department of Highways or a Department of a Director of Works and situated in that district; and for the purposes of the application of the provisions of this Ordinance relating to the building limit along roads, the building limit along such road or part of a road shall be the

building limit as so modified or extended by the Minister;

Provided, however, that the Director shall, before recommending any such modification, have regard to the convenience of the public, and to the need for preserving the amenities of the locality and for ensuring that the modification will not increase the cost of any proposed scheme for the development, diversion or enlargement of the road, or any part of the road, which will be affected by such modification.

Powers of Executive Engineer upon contravention of section 24.

26. (1) If any person erects or re-erects any building, boundary wall or gateway or makes any addition to any building, boundary wall or gateway in contravention of any of the provisions of section 24, the Executive Engineer shall be entitled to cause such building, wall or gateway to be demolished or removed by any officer or servant appointed under this Ordinance, and for that purpose, the Executive Engineer or any such officer or servant shall have the same rights of entry and survey and the same powers of removal, abatement and recovery of costs as in the case of an obstruction or encroachment upon a road, and all the provisions of this Ordinance relating to such obstructions and encroachments, so far as they are applicable, shall apply accordingly with such modifications as may be necessary.

(2) Without prejudice to the provisions of subsection (1), the Executive Engineer may by order in writing served on any person who has contravened any of the provisions of section 24, require such person to demolish or remove or as the case may be, to restore to its original condition, the building, boundary wall or gateway in respect of which the contravention was committed, within such time as may be specified in the order, and if such person fails to comply with the requirements of the order within the time specified therein, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty rupees and to a further fine not exceeding fifty rupees for each day during which he suffers or allows such building, wall or gateway to remain in contravention of such order. No order shall be made under this subsection except with the written consent of the Director.

27. Where any building, boundary wall or gateway which has been re-erected or added to under the authority of a licence under section 24, is situated on any portion of land of which possession for the public use is taken under section 6 of this Ordinance, or which is acquired under the Eand Acquisition Act, the determination of the compensation payable in such case shall, notwithstanding anything to the contrary in that Act, be subject to the following provisions:—

Compensation in respect of land developed by buildings.

- (a) where the whole of the building or of any boundary wall or gateway is situated within the building limit, the value assigned to the building, boundary wall or gateway as distinct from the land acquired shall be the value entered in the register under section 24 (3) or the market value of the building, boundary wall or gateway at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such market value shall be the difference between the market value of the building, boundary wall or gateway together with the land attached thereto, at the time of the acquisition, and the market value at that time of the land so attached as distinct from the building, boundary wall or gateway ;
- (b) where only a part of the building or of any boundary wall or gateway is situated within the building limit and the value entered in the register under section 24 (3) is the value of the entire building, boundary wall or gateway in accordance with subsection (2) (a) of section 28, the value assigned to that part of the building, boundary wall or gateway, as distinct from the land acquired, shall be the value so entered or the market value of the entire building, boundary wall or gateway at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such market value shall be the difference between the market value of the entire building, boundary wall, or gateway together with the land attached thereto,

at the time of the acquisition, and the market value at that time of the land so attached as distinct from the entire building, boundary wall or gateway;

- (c) where only a part of the building or of any boundary wall or gateway is situated within the building limit and the value entered under section 24 (3) is the value of that part in accordance with subsection (2) (b) of section 28, the value assigned to that part of the building, boundary wall or gateway, as distinct from the land acquired, shall be the value so entered in the register or the value of the part of the building, boundary wall or gateway within the building limit at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such value shall be the aggregate of—
 - (i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway at that time; and
 - (ii) the estimated cost, in the case of a building, of adapting at that time the part of the building which will then remain to the purpose for which the building is used at that time, and in the case of a boundary wall or gateway, of completing at that time such additions or repairs as may be necessary;
- (d) no compensation shall be allowed in respect of any building, wall or gateway erected, after the 15th day of February, 1943, within the building limit whether or not such erection was made under the authority of a licence under section 24, or in respect of any re-erection or addition made or effected thereto in contravention of that section;
- (e) the value assigned to the land as distinct from the buildings thereon shall be the market value of the land at the time of the acquisition.

28. (1) The value of any building, boundary wall or gateway shall, for the purposes of subsections (2) and (3) of section 24—

Valuation of buildings, &c., within building limit.

- (a) be fixed by agreement between the Superintending Engineer and the owner or owners of the building, boundary wall or gateway ; or
- (b) where it is not so fixed by agreement, be determined by the arbitration of two arbitrators, one nominated by the owner or owners of the building, boundary wall or gateway, and the other by the Superintending Engineer, or if such arbitrators cannot agree upon the said value, by an umpire chosen jointly by the two arbitrators.

(2) In determining the value of any building, boundary wall or gateway or any part thereof for the purposes of section 24 (2), the following principles shall be followed:—

- (a) where any building, boundary wall or gateway, or any part thereof the removal of which would render the remaining part useless, is situated within the building limit of any road, and where, for that reason, the removal of the entire building, boundary wall or gateway will become necessary in the event of the road being widened, the value of the entire building, boundary wall or gateway shall be determined ; and such value shall be the difference between the market value of the premises, that is to say, of the building, boundary wall or gateway together with the land attached thereto, at the time of the valuation, and the market value at that time of the land as distinct from the building, boundary wall or gateway;
- (b) where only a part of a building, boundary wall or gateway is situated within the building limit of any road, and after the severance and removal of such part the remaining part will be capable of adaptation either to the original

" purpose of the building, boundary wall or gateway or to any other purpose permitted by law, the value of the part within the building limit shall alone be determined ; and such value shall be the aggregate of—

- (i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway; and
- (ii) the estimated cost, in the case of a building, of adapting the part of the building which will then remain to the purpose for which the building is used at the time of the valuation, and in the case of a boundary wall or gateway, of completing such additions or repairs as may be necessary;

(c) where, at the time of the valuation of any building, boundary wall or gateway, the value of such building, boundary wall or gateway is found to have been increased by any alteration or improvement effected in the building, boundary wall or gateway after the 15th day of February, 1943, then notwithstanding that the alteration or improvement may have been authorized by a licence under section 24 (1), the amount of the increase shall not be taken into account unless the alteration or improvement was necessary for the maintenance of the building, boundary wall or gateway in a proper state of repair.

(3) Every award or agreement made or entered into, as the case may be, under subsection (1) in respect of the value of any building, boundary wall or gateway or part thereof, shall specify the particular paragraph or paragraphs of subsection (2) in accordance with which the value aforesaid was fixed or determined.

Acquisition of adjacent land for owner of land affected by building limit.

29. (1) Where the right of the owner of any land, part of which is situated within the building limit of any road, to erect a building on the land, is restricted by reason of the provisions of section 24, such owner

may, if he desires to erect a building, make application to the Superintending Engineer requiring that land at the rear of his land, of sufficient extent to afford him building facilities of the same nature as he would have enjoyed if the provisions of section 24 had not been in force, be acquired for him at his expense; and the Minister may, upon the recommendation of the Superintending Engineer and after such inquiry as he may deem necessary, order that a specified extent of the land at the rear of the land of such owner shall be acquired for such owner, and the provisions of any written law relating to the acquisition of private land for public purposes shall thereupon apply for the purposes of the acquisition of such extent of land in like manner as if such extent of land were required for public purposes.

(2) All costs, charges, and other expenses incurred in the acquisition of any extent of land in pursuance of an order under subsection (1) shall be paid by the owner of the land upon whose application such extent of land is acquired.

30. (1) For the purposes of sections 24 to 29, a road shall be deemed to be in charge of the Department of Highways or a Department of a Director of Works if it is maintained by the Department of Highways or a Department of a Director of Works from funds provided out of the Consolidated Fund ; and a certificate under the hand of the Director to the effect that any road is in charge of the Department of Highways or a Department of a Director of Works shall be conclusive evidence of the fact that the road is so maintained.

Application of sections 24 to 29.

(2) Nothing in sections 24 to 29 shall apply in the case of any building, boundary wall or gateway erected or re-erected, or proposed to be erected or re-erected—

(a) along any principal thoroughfare which is situated in any town as defined in the Urban Councils Ordinance or Town Councils Ordinance and in relation to which the provisions of sections 44 (2) and 45 (2) of those Ordinances respectively are applicable ; or

(b) along any road in respect of which street lines providing for a roadway

exceeding fifty feet in width have been defined under section 19 of the Housing and Town Improvement Ordinance.

(3) For the purposes of sections 24 to 29 and of the foregoing subsections of this section, the expression " boundary wall" includes every structure of whatsoever material and in whatsoever manner constructed, and every fence of whatsoever description, which serves or is intended to serve the purposes of, a boundary wall.

Proof of right to apparent encroachment to rest upon the owner.

31. (1) Whenever it appears to an Executive Engineer that the line of any thoroughfare in his district has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, the Executive Engineer shall give notice in writing to the occupier of the land from off which the said thoroughfares shall be alleged to have been turned, or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, that a survey of the premises has been made by the authority of the Executive Engineer, and is open to the inspection of such occupier at a place to be therein mentioned, and that unless within one month from the service of such notice he or the person under whom he holds, shall take legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the Executive Engineer will proceed with the removal thereof in manner provided by section 33 of this Ordinance ; and if no such legal proceedings are taken within the time specified, or being taken are not duly prosecuted, it shall be the duty of the Executive Engineer to cause any such obstruction or encroachment to be forthwith removed as hereinafter provided.

(2) Where legal proceedings are taken as aforesaid it shall be incumbent on the party claiming to be the owner of the land from off which the line of any thoroughfare has been alleged to have been altered or turned or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, to prove his title to such land.

Survey by proper officer to be conclusive evidence.

32. If any plan or survey made by the authority of the Director shall be proved in evidence in any proceeding under this Ordinance, such plan or survey shall be

deemed and taken to be conclusive proof of the facts exhibited therein, in so far as the claim of the State is considered unless satisfactory proof to the contrary shall be established by the party contesting such claim.

33. It shall be lawful for the Executive Engineer to give order verbally or by notice in writing, to any person obstructing or encroaching upon any thoroughfare, forthwith to remove or abate the same ; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom such order should be given, it shall be lawful for the Executive Engineer to cause any such obstruction or encroachment to be forthwith removed or abated, and for that purpose it shall be lawful for the Executive Engineer, or any person thereto authorized in writing by the Executive Engineer where necessary, to enter into any house, garden, inclosure, or other premises, and to cause to enter therein such persons, with such instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement; and upon the Executive Engineer certifying to the Magistrate's Court of the division where such person resides, or where such obstruction or encroachment existed, the costs which have been bona fide incurred in effecting such removal or abatement, such court shall summon the party, on account of whose non-compliance with any such order such costs were incurred, to appear before it on a certain day, then and there to make payment of the costs which shall appear to such court to have been properly incurred in that behalf; and if such party shall refuse or fail to make such payment forthwith, or within such time as the court shall appoint, the court shall proceed to recover such payment in such and the same manner as it would proceed to recover any fine incurred under any sentence of such court :

Removal of obstructions or encroachments.

Costs

Provided that if any removal shall be effected after the due production of all deeds, documents, and instruments affecting the title to such premises, and such premises shall nevertheless be adjudged to be the

property of the party laying claim to the same, the Executive Engineer shall be liable in damages for all loss and injury occasioned thereby; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents and instruments, or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and the Executive Engineer shall nevertheless have caused the removal of such building, inclosure, or encroachment, then in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof the Executive Engineer shall not be liable in damages for any loss or injury occasioned thereby-

The law of prescription not to apply to roads.

34. Neither the provisions of the Prescription Ordinance nor those of any other law relating to the acquisition of rights by virtue of possession or user shall apply to roads; and no person shall be entitled to any exclusive rights of ownership, possession, or user over or in respect of a road or any portion thereof by reason of his having, either before or after the coming into operation of this Ordinance, had possession or use, of any description whatsoever, of the same.

INJURIES TO THOROUGHFARES

Offences.

***35.** Whosoever shall commit any of the following offences on or relating to any thoroughfare shall be liable to a fine not exceeding fifty rupees :—

Destroying milestones, bridges, &c.

(1) whosoever shall wilfully destroy, pull up, deface, throw down, break, or injure any milestone, milepost, lamp-post, or direction post, or any bridge, battlement, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain, or fence belonging to any thoroughfare or put up at or near any pit or quarry opened or used for getting road materials ;

(2) whosoever shall wilfully and unnecessarily remove any fence, post, stone, log, or other thing laid or put up by the authority of the Director, or of any Superintending or Executive Engineer, on or in any thoroughfare for the temporary prevention of the use thereof or for preventing danger or injury of persons passing along the same whilst undergoing repair;

Removing fence, log, &c., put up or laid on thoroughfare to prevent temporarily its use.

(3) whosoever shall, without such authority as aforesaid, gather or heap up to take away any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any thoroughfare;

Taking away stones, gravel, &c.

(4) whosoever shall lead or drive any ox, horse, pig, or other animal from or off or on or into any thoroughfare in such manner as to cause injury to the same, or shall suffer any such animal to damage the same;

Injuring thoroughfare by driving ox, &c., from or on or into it.

(5) any owner or occupier of any land contiguous to any road who shall suffer the passage of the water from such road or from any ditch or drain leading therefrom to be obstructed by making or leaving any way or passage from any road into the adjoining land, or into his house, without a sufficient sewer, gullet, or pipe underneath it; or who shall suffer any water, filth, or other substance or thing to flow or run from such land or house into or upon any such road, or shall suffer any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water,

Suffering passage of water from road to be obstructed.

Suffering water, filth, &c., to flow upon road.

(6) whosoever shall haul or draw upon any thoroughfare any timber, stone, or other thing otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages, to

Hauling or trailing timber. &c.

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

drag or trail upon such thoroughfare to the damage thereof;

Making any dam, ditch, drain, &c., upon or across any thoroughfare.

(7) whosoever shall make or cause to be made any dam, ditch, drain, or watercourse upon or across, or shall otherwise break up or injure, the surface of any thoroughfare;

Attaching additions to the eaves of houses, or causing carts to be loaded or unloaded in front of dwelling, &c.

(8) whosoever shall attach additions to his house so as to project over the outer edge of the side drain of any road, or who shall by means of temporary supports or otherwise expose goods or wares of any description over any portion of a road or its side drain, or who shall by causing carts to be loaded or unloaded in front of his dwelling in any way injure the side drain.

Using new road for certain time after making.

***36.** It shall be lawful for the Executive Engineer to forbid all persons from riding or driving any kind of beast or carriage on any road for such space of time as shall to him appear necessary, not exceeding one month after such road shall have been made or repaired; and any person who shall wilfully disobey such order (the same being duly notified by a notice affixed to a board or boards erected upon or near to such road) shall be liable to a fine not exceeding fifty rupees.

Owner or occupant bound to have bridge, &c., over drain leading to his house.

37. If the owner or occupant of any house or premises adjoining any road by the side of which a drain shall have been made or excavated shall require the means of access to such house or premises from such road, he shall be bound to place a bridge, platform, or arch, which shall in no case cover less than four feet of the length of such drain; and it shall be lawful for the Executive Engineer, if it shall come to his knowledge that any parties have access to any house or premises so situated without such bridge, platform, or arch as aforesaid to call upon the owner or occupant thereof forthwith to construct the same, and if he shall fail to do so within a reasonable time, to cause the same to be done, and to recover the costs thereof in the manner provided in section 33 for the recovery of the costs therein mentioned.

NUISANCES ON THOROUGHFARES

***38.** Whosoever shall commit any of the following offences shall, except where other provision is herein expressly made, be liable to a fine not exceeding fifty rupees :—

(1) whosoever shall turn or suffer to be turned loose any ox, horse, sheep, goat, or other animal of any description on to or into any thoroughfare or so that it makes its way on to or into any thoroughfare, or shall tie or tether or suffer to be tied or tethered any ox, horse, sheep, goat, or other animal of any description so that any such animal can or shall make its way on to or into any thoroughfare, unless such animal shall be so tied or tethered during the time required for loading or unloading it or for the loading or unloading of any cart or boat to which it may belong:

Offences.

Turning cattle loose on road or canal.

Provided that where such animal is found on or in any thoroughfare, or tied or tethered so that it can make its way on to or into any thoroughfare, it shall be deemed to have been turned loose or suffered to be turned loose, or to have been tied or tethered or suffered to have been tied or tethered, as the case may be, by the owner thereof, unless he satisfies the court to the contrary;

Tying cattle on near road or canal.

(2) it shall and may be lawful for any person thereto authorized by the Executive Engineer to seize any ox, horse, sheep, or goat which he may find tied, tethered, or straying upon any thoroughfare within the province or division for which the Executive Engineer is assigned to act, unless any such animal belong to any cart or boat to which it is tied or tethered whilst the same is being loaded or unloaded :

Seizers of stray cattle.

Provided that if the person authorized as aforesaid shall not be a peace or police officer, every such animal seized by him shall be forthwith delivered into the custody of the nearest peace or police officer; and every such officer seizing or receiving any such animal as aforesaid shall forthwith

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

report such seizure to the proper Magistrate's Court, and such court shall, if at the time of such report no claim be made to such animal, direct such officer to take the necessary steps for the safe custody and maintenance thereof, and to publish such seizure in the usual manner; and no such animal seized as aforesaid shall be delivered to the owner thereof unless upon payment into such court of the sum of one rupee, or such other sum as the Minister by notification in the Gazette, may fix from time to time, for the use of the person by whom the same shall have been seized, and of a further sum not exceeding thirty cents for each day during which the same shall have been kept in the custody of the said officer, for the use of such officer; and if no person shall claim such animal or pay such dues as aforesaid within ten days after the animal shall have been so seized, it shall be lawful for such officer, and he is hereby required, to sell the same by public auction, and after payment of one rupee, or such other sum as the Minister, by notification in the Gazette, may fix from time to time, to the person by whom the same may have been seized, and of the sum due to himself for the custody and maintenance thereof, to pay the remainder of the produce of such sale, if any, to the Magistrate's Court to be credited to the Consolidated Fund ;

Destruction of
stray pigs.

(3) any owner of a pig found tied, straying, burrowing, or wallowing in any road or canal shall be liable to a fine of one rupee and fifty cents; and it shall be lawful for every person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any road or canal; and such person may, if he choose, take such pig to any peace or police officer of the division in which the offence was committed, who shall forthwith sell the same, and pay the produce of such sale to such person;

Interference
with cattle
seizers.

(4) whosoever shall remove any animal from the lawful custody of any person authorized to seize the same under paragraphs (2) and (3) hereof, or shall in any way molest or obstruct such person in the discharge of his duties;

(5) whosoever shall hang up or otherwise expose any mats, cloths, or other substances on or at the side of any road, in a manner calculated to terrify horses or endanger the passengers;

Hanging up
mats, &c.

(6) whosoever shall leave, or permit to be left, on any road to which this provision shall be extended, as hereinafter mentioned, any cart or other carriage, without the oxen, horses, or other animals being yoked or harnessed thereto, unless such cart or carriage shall have accidentally broken down there; and in case of such accident, for a longer time than may be necessary for its removal;

Leaving carts
on roads to
which this
provision is
extended.

And it shall be lawful for the Minister by Notification to declare that the provisions of this subsection shall extend and be applicable to any road in Sri Lanka, or to any section of such road, whenever it shall appear to the said Minister that a sufficient number of halting places have been constructed along the same; and thereupon such provision shall extend and apply to any road or section of a road, mentioned in such Notification;

Minister by
Notification
may extend
this provision
to any road.

(7) whosoever shall drive any cart drawn by one or more bullocks, or suffer the same to remain in any thoroughfare between the hours of sunset and sunrise, without having a light attached thereto ;

Driving or
leaving any
cart in any
thoroughfare
without a light
between sunset
and sunrise.

(8) whosoever shall leave any boat or raft in any canal in such a way as to obstruct the passage on such canal;

Leaving boat
or raft, so as
to obstruct
passage on
canal.

(9) whosoever shall lay or throw any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scourgings of any ditch or drain or other object or thing, on or in any road, river, or canal, and shall allow the same to remain there, except for such a period as shall be absolutely necessary for the removal thereof;

Laying stones,
timber,
rubbish, &c.,
on any road
or canal.

Persons placing stones upon roads at Jaffna.

And whereas it is customary in the cultivation of lands situated in the peninsula of Jaffna to remove the stones from the same from time to time, and whereas the stones so removed are frequently placed upon the roads: It is enacted that whenever any stones shall be found to be so placed upon any road within the division aforesaid, the placing thereof shall be deemed to be the act of the person in occupation of the land immediately adjoining, unless the contrary be proved, and such person shall be liable to the penalties herein provided;

placed or continued as aforesaid to be pulled up or otherwise destroyed, and to recover the costs thereof in the manner provided in section 33 for the recovery of the costs therein mentioned :

Carrying timber, &c., crosswise.

- (10) whosoever shall lead or drive on any road any cart or other carriage with timber, boards, iron, or other goods, so that either end shall project beyond the wheels or sides thereof;

Provided that nothing herein contained shall render any officer in charge of any work on any thoroughfare, or any road contractor, liable to any fine for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract; but if any such officer or contractor shall lay or cause to be laid any heap of stones, gravel, rubbish, or other matter whatever upon any road, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon (all due and reasonable precautions not having been taken by him to prevent any such danger or damage), such officer or contractor shall be liable to a fine not exceeding fifty rupees.

Road officer or road contractor not liable to fine except in certain cases.

Encroachment on thoroughfare.

- (11) whosoever shall encroach on any thoroughfare by making or causing to be made any building, platform, hedge, ditch, or fence or other obstruction upon or in any thoroughfare;

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

Police officers and grama seva niladharis to enforce provisions of Ordinance.

Leaving block on road.

- (12) whosoever shall after having blocked or stopped any cart or other carriage in going up or down a hill or rising ground, cause or suffer to be or remain on any road the stone, timber, or other thing with which such cart or other carriage shall have been blocked or stopped ;

Preventing others from passing.

- (13) whosoever shall in any manner wilfully prevent any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any thoroughfare ;

40. In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject-matter) the following terms shall have the respective meanings hereinafter assigned to them, that is to say :—

Interpretation.

Erection of kraals in canals and rivers.

- (14) whosoever shall place or continue any kraal or fence or any other obstruction in any canal or river, so as to impede or in any way interfere with the convenient navigation thereof;

" canal " means any public canal, and shall include the full extent of waterway from bank to bank, together with the sides, towing-paths, embankments, drains, and ditches thereto belonging;

And it shall be lawful for the Executive Engineer to cause any such kraal, fence, or obstruction so

" centre of the road " shall be deemed to be the centre of the part thereof commonly used as a thoroughfare ;

" ox " includes buffalo and all cattle;

" resthouse" includes any *ambalam*, *maddum*, or other public building for the shelter of travellers;

[§ 5, Law 37 of 1973.]

" Director" means the Director of Highways and includes—

" river" includes all public navigable streams, lakes, estuaries, creeks, and inlets of the sea, and all towing-paths and embankments thereto belonging;

(i) the Deputy Director of Highways,

"road" includes—

(ii) in respect of any power, duty or function of the Director of Highways under this Ordinance, any Assistant Director of Highways authorized in writing by such Director to exercise such power, perform such duty or discharge such function,

(a) all public carriageways, cartways, and pathways, as well as all bridges, drains, and embankments, causeways, and ditches belonging or appertaining to a road,

(iii) the Director of Works having authority in the area concerned,

(b) all land adjoining any road, which has been reserved for its protection or benefit,

(iv) the Deputy Director of Works having authority in the area concerned, and

(c) all land which has been marked off and reserved for the construction of any road,

(v) in respect of any power, duty or function of the Director of Highways under this Ordinance, any Assistant Director of Works authorized in writing by the Director of Works to exercise such power, perform such duty or discharge such function of the Director of Highways;

(d) all waste land which, not being private property, lies within a distance of thirty-three feet of the centre of public carriageways and cartways and ten feet of the centre of public pathways, the burden of proving that such waste land is private property lying on the person asserting the same, and

[§ 5, Law 37 of 1973.]

" Executive Engineer" means the Executive Engineer for any division;

(e) all public squares, greens, market places, and other public places other than public buildings;

" horse " includes all animals except oxen commonly used in drawing any kind of carriage;

" householder " means the owner, or part owner, or lessee, or principal occupant of the house in which such person resides;

" Superintending Engineer " means the Superintending Engineer for any region; [§ 5, Law 37 of 1973.]

" thoroughfare " means any public road, canal, or river;

" inhabitant " means a person who, being in Sri Lanka, has resided therein for three months or upwards ;

" town " means any place within the limits of which a police force is or shall hereafter be established.

CHAPTER 525

TOLLS

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE COLLECTION
 Nos. 3 of 1896, OF TOLLS.
 21 of 1905,
 14 of 1907,
 10 of 1916,
 29 of 1933,
 61 of 1939,
 3 of 1946,
Acts
 Nos. 4 of 1954,
 22 of 1955.

[1st January. 1897.]

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Tolls Ordinance.

and canals specified in the Schedules A and B respectively, and in respect of ferries and footbridges upon all foot passengers, at such rates as the Minister with the concurrence of the Minister in charge of the subject of Finance from time to time, by Order published in the Gazette shall be pleased to appoint:

TOLLS ESTABLISHED

Toils at ferries and canals. 2. Subject to the provisions and limitations hereinafter contained, tolls shall be levied upon all horses, elephants, oxen, vehicles, and boats, in respect of the ferries

Provided that such rates shall in no case exceed the rates hereinafter specified, that is to say—

TOLLS ON FERRIES

	Rs.	c.
Every vehicle for passengers drawn by one horse, driver and passengers included with two wheels	0	50
Every vehicle for passengers drawn by one horse, driver and passengers included with four wheels	0	60
Every vehicle for passengers drawn by two horses, driver and passengers included	0	60
Every additional horse used in drawing such vehicle, and attached thereto	0	10
Every vehicle for passengers drawn by one ox, driver and passengers included	0	30
Every additional ox attached thereto	0	10
Every horse carrying a load or not carrying a load, with or without a rider	0	20
Every ox carrying a load	0	10
Every vehicle carrying a load and drawn by one horse or ox	0	30
Every vehicle carrying a load and drawn by two horses or oxen	0	50
Every additional horse or ox attached thereto	0	10
Every vehicle not carrying a load and drawn by one horse or ox	0	10
Every vehicle not carrying a load and drawn by two horses or oxen	0	15

TOLLS

[Cap. 525]

TOLLS ON FERRIES (*Contd.*)

		Rs. c.
Every additional horse or ox attached thereto	0	10
Every vehicle carrying a load and drawn by two elephants	1	00
Every vehicle not carrying a load and drawn by two elephants	0	50
Every vehicle carrying a load and drawn by one elephant	0	70
Every vehicle not carrying a load and drawn by one elephant	0	30
Every elephant carrying a load, not being his food	0	30
Every elephant not carrying a load	0	20
Every bicycle, tricycle, or jinricksha	0	10
Every motor car	0	60
Every motor cycle	0	20
Every mechanical tractor with trailer:—		
Loaded	1	25
Unloaded	0	25
Every lorry propelled by steam or other mechanical means :—		
Loaded	1	25
Unloaded	0	25
Every ox, cow, calf, sheep, goat, or pig	0	01
Every leaguer or cask not carried in a vehicle or by a man, but rolled along the road	0	10
Every wheeled vehicle not enumerated above	0	40
Every foot passenger crossing any ferry or foot-bridge, except children under twelve years of age and keepers and leaf-cutlers attending elephants, horses, and cattle	0	02

TOLLS ON CANALS

		Rs. c.
<i>Pada</i> boat, <i>batlel</i> , or lighter of and under 50 feet in length }	loaded	1 50
	unloaded	0 75
<i>Pada</i> boat, <i>batlel</i> , or lighter over 50 feet in length }	loaded	2 50
	unloaded	1 25
Double canoe, scooped dhoney, and <i>kul'a</i> }	loaded	0 60
	unloaded	0 30
Every additional canoe supporting a platform		0 10
Single canoe or <i>ballam</i> , with freight or passengers		0 30
Single canoe or <i>ballam</i> , unloaded		0 15
Raft or <i>caiamaram</i> , 30 feet by 10 feet and under }	loaded	1 00
	unloaded	0 50
For every additional foot over 30 feet in length and under 50 feet }	loaded	0 50
	unloaded	0 25
For every additional foot over 50 feet }	loaded	0 20
	unloaded	0 10
For every additional foot or breadth on 15 feet whether loaded or unloaded		0 50
For every boat propelled by steam or electric power, or any power obtained by any means other than hand, beast of draught, or sail, whether loaded or unloaded, and of whatever draught or capacity		2 50
Every boat not enumerated above		0 50:

Higher toll on ferries more than a furlong wide.

Provided that it shall be lawful for the Minister with the concurrence of the Minister in charge of the subject of Finance, by Order published in the Gazette, from time to time to cause a higher rate of toll than that above specified to be levied in respect of ferries which shall exceed one furlong in width;

As to fishing boats and vehicles and boats, &c., conveying manure.

Provided further, that boats or canoes employed in fishing, and not conveying loads or passengers, shall be exempt from toll, and that no tolls shall be demanded or taken for or in respect of any horse, ox, vehicle, boat, or canoe when employed, or going to be or returning from having been employed, in carrying or conveying only dung, soil, compost, bone dust, or manure for land (save and except lime, salt, saltpetre, and poonac), and the necessary implements used for filling the manure, and, in the case of boats, the necessary tackle, apparel, and provisions of such boats and the crew thereof;

As to empty vehicles fitted with trays for the carriage of green tea leaf.

Provided further, that all vehicles fitted with trays, baskets, or other apparatus for the carriage of green tea leaf and drawn by a horse or an ox, or by horses or oxen, and all boats and canoes so fitted, shall be exempt from toll respectively, except when actually carrying such leaf or any other load in respect of which toll is leviable under this Ordinance;

As to such vehicles when loaded with green tea leaf to be manufactured in any factory on the estate.

Provided further, that every vehicle so fitted and drawn by a horse or an ox, or by horses or oxen, and every boat or canoe so fitted, shall be exempt from toll when loaded with green tea leaf to be manufactured in any factory standing upon the estate whereon such leaf has been plucked or gathered.

Tolls in respect of ferries due whether ferry boats used or not.

3. The tolls imposed in respect of ferries shall be due and leviable whether the ferry boats provided for carrying passengers or conveying vehicles or goods across the ferries be used or not.

Vehicles and boats loaded with coconut husks to pay as unloaded vehicles and boats, and to pay only once.

4. From and after the day on which this Ordinance comes into operation vehicles and boats loaded with coconut husks in an unmanufactured condition, and with no other goods or merchandise, except the necessary tackle, apparel, and provisions of

such boat and the crew thereof, shall pass as, and pay the tolls of, unloaded vehicles and boats only. If such vehicles and boats shall pass more than once the same day, loaded as aforesaid, no further tolls shall be demanded or taken for or in respect of them, but they shall pass free.

5. (1) The Minister may, from time to time, by Order published in the Gazette, declare an exemption from toll in favour of any substance or substances specified in such Order and used—

Minister may exempt manures and other substances from toll.

- (a) for manuring purposes,
- (b) for checking leaf disease in coffee and other plantations in Sri Lanka.

(2) After the publication in the Gazette of such Order no toll shall be demanded or taken for or in respect of any horse, ox, vehicle, boat, or canoe when employed, or going to be or returning from being employed, in carrying or conveying only the substance or substances specified for exemption from toll in such Order, or only such substance or substances, together with any other substance or substances exempted from toll by any Order issued under this Ordinance, and the necessary implements used for filling or carrying manure or for carrying such other substances as may be specified in such Order, and in the case of boats the necessary tackle, apparel, and provisions of such boats and the crew thereof.

6. The Minister may, by Order published in the Gazette, revoke, alter, or amend any such Order as aforesaid.

The Minister may alter or revoke such Order.

7. Parliament may by means of any resolution duly passed at any public session establish tolls in respect of any ferry or canal in Sri Lanka, in addition to the tolls set out in Schedules A and B, and the provisions of this Ordinance shall apply to the tolls so established as fully and effectually as if such tolls had been enumerated in the said Schedules or in both or one of them.

Parliament may by resolution establish tolls.

8. The Minister may by Order to be notified in the Gazette—

Minister may abolish and alter places for collecting tolls.

- (a) abolish any existing tolls or any tolls which may hereafter be legally established; and

(b) determine at what places tolls shall be collected, and alter such places and other places appoint for the collection thereof:

Provided that until the Minister shall issue an Order under this section abolishing any toll or altering the place at which any toll is by this Ordinance authorized to be collected, such toll shall be collected in respect of every ferry and canal specified in Schedules A and B respectively at the several places specified and set forth in Schedule C.

9. Whenever it shall be found necessary to establish any ferry other than those enumerated in Schedule A, it shall be lawful for the Minister, by Order published in the Gazette to direct that tolls not exceeding those specified in section 2 shall be levied in respect thereof.

10. Whenever tolls shall be directed to be levied under section 9 of this Ordinance, or whenever tolls shall be established by resolution of Parliament under section 7 of this Ordinance, the provisions of this Ordinance shall be held applicable thereto as if those tolls were specified herein, and the Orders and resolutions by which the same shall be respectively levied and established shall be read and construed as if they formed part of this Ordinance, and shall be applied and put in execution accordingly.

11. The President, and his suite when in immediate attendance on him, together with all their necessary attendants, horses, animals, conveyances, baggage, and implements, all public officers, soldiers, and volunteers on duty or on their march, and their horses and baggage, and all carriages and horses belonging to the State or employed in the service of the State, and all horses, animals, and vehicles conveying any such persons as aforesaid, or their baggage, or returning from conveying the same, and all messengers, carriages, and horses drawing or carrying the public mails, shall be exempted from payment of any toll; and it shall be lawful for the Government Agent, if he shall see fit so to do, to direct the toll-keeper in writing to permit cattle or sheep driven to grass, persons with cattle,

agricultural instruments, paddy plants, or seed grain for the cultivation of their lands, and children going to and from school, to pass without payment of toll. All persons, vehicles, animals, or boats employed in the construction or repair of any telegraph or telephone line belonging to Government, or any road, railway, bridge, canal, or ferry, within ten miles of the toll station, or in making Government surveys within that distance, shall pass without payment of toll, on production of a certificate of such employment from the officer superintending the work or survey; and any officer giving such certificate to or in respect of any person, vehicle, or animal, or boat not bona fide employed as aforesaid shall be guilty of an offence and be liable on conviction to a fine not exceeding fifty rupees.

REGULATION AS TO TOLL

12. No toll shall be levied upon any passenger, vehicle, animal, or boat upon his or its return by, over, or through any canal, or ferry at which he or it shall have paid toll on the same day (to be computed from 12 o'clock at night to 12 o'clock of the succeeding night), unless such vehicle, animal, or boat shall carry a different load ; and the one-half only of the appointed toll shall be levied upon any passenger, vehicle, animal, or boat at any canal or ferry, by, over, or through which he or it shall have passed, in a like direction on the same day, unless such vehicle, animal, or boat shall carry a different load :

Provided that it shall be incumbent upon the party claiming such total or partial exemption to produce a ticket signed by the keeper of such toll station denoting such previous payment to have been made ;

Provided further, that when toll has been paid at any toll station on any unloaded vehicle, elephant, or boat and a ticket taken, and such vehicle, elephant, or boat repasses on its return journey the same toll station carrying a load on the same day (to be computed from 12 o'clock at night to 12 o'clock of the succeeding night), credit for the amount paid on such unloaded vehicle, elephant, or boat shall, on production of the ticket, be given in computing the amount of toll to be paid when such return journey is made.

13. Every person having once paid toll in respect of himself or of any vehicle, animal, or boat at any place payment at

Return tolls.

Ticket required to clear passengers.

Tolls on ferries hereafter established.

Provisions of the Ordinance made applicable to future tolls.

Exemptions from tolls.

which shall have been declared by the Minister, by Order published in the Gazette, to clear any other place, shall, on the production at such other place of a ticket denoting such payment to have been made, pass the same without any further payment of toll, except where such person, vehicle, animal, or boat shall at such latter place have become liable to a different rate of toll.

TOLL-KEEPERS

Appointment of toll-keepers.

14. The tolls hereby established shall be taken and levied by the toll-keeper or some one of the toll-keepers to be appointed by the Government Agent of the administrative district in which such tolls are levied, except as hereinafter provided:

Provided that in any case in which more than one toll-keeper shall be appointed for any place, such toll shall be demanded and taken by such one only of the said toll-keepers as shall at the time of such demand be the wearer of the metal badge hereinafter mentioned ; and if the privilege of collecting tolls at any place shall at any time be let to any party, it shall be lawful for the Government Agent, except as aforesaid, on the application of such party, to appoint such person or persons as he may name to be toll-keeper or toll-keepers at such place ; and if such party shall at any time be desirous of removing any toll-keeper appointed on his application as aforesaid, he shall give a written notice of his intention so to do to the Government Agent or his Assistant at least ten days before carrying the same into effect; and any party who shall remove any toll-keeper without giving such notice shall be guilty of an offence, and be liable on conviction thereof to pay a fine not exceeding fifty rupees.

COLLECTION OF TOLLS

Toll-keepers to wear badge;

15. Every toll-keeper appointed under this Ordinance shall, while engaged in the collection of tolls, wear a metal badge, whereon shall be engraved the name of the place at which he is appointed to collect tolls ; and there shall be suspended at some conspicuous place immediately adjoining every place at which tolls are hereby authorized to be collected, so as to be distinctly legible, in the Sinhala, Tamil

and put up table of tolls and name.

TOLLS

and English languages, a copy of section 2 of this Ordinance, and also a notice setting forth the name or names of the person or persons appointed to collect the tolls at such place.

16. Every toll-keeper while engaged in the collection of tolls shall be provided with tickets consecutively numbered, acknowledging the payment of toll and the date thereof, and mentioning the ferry or canal, if any, cleared by such payment, one of which tickets, duly signed by him, shall be delivered gratis to the person paying the toll; and every such ticket shall be in the Sinhala, Tamil and English languages, and in the form in Schedule D :

Toll-keeper to give tickets.

Provided always, that it shall be lawful for the Government Agent, if he shall see fit so to do, to grant to such toll-keeper permission to deliver such tickets in the Sinhala and Tamil languages only.

17. If any toll-keeper shall at any time collect any toll without wearing a metal badge as aforesaid, or omit to suspend a copy of section 2 of this Ordinance, and the notice of the name or names of the person or persons appointed to collect the tolls, or shall wilfully remove, conceal, alter, or deface the same or either of them, or permit either of them to become illegible, or shall demand or take toll in any case in which toll is not payable under the provisions of this Ordinance or a greater or less toll than he shall be authorized to do thereunder, or shall fail to grant to any person having paid toll a ticket denoting such payment as hereinbefore required, or shall wilfully subject any passenger, vehicle, animal, or boat to unreasonable delay or detention, or shall demand or take toll from any person by this Ordinance exempted from the payment of toll, or from any person whom he has been duly directed by the Government Agent to permit to pass without payment of toll, such toll-keeper shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding fifty rupees, and on any second or subsequent conviction to a fine not exceeding one hundred rupees.

Penalty in case of toll-keeper acting contrary to the Ordinance.

FURTHER PENALTIES

Penalty on levying tolls without authority.

18. If any person other than a toll-keeper duly appointed to collect toll shall demand or take any toll, or for the purpose of appearing or representing himself to be a toll-keeper shall wear or carry, or produce or exhibit to any person liable to pay toll the metal badge which by this Ordinance a toll-keeper is required to wear, or any badge resembling or intended to resemble such metal badge, or shall otherwise personate or represent himself to be a toll-keeper, every person so offending shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees; and any toll-keeper who shall wilfully lend or give his metal badge to any person not duly appointed to collect toll, in order that the person should personate such toll-keeper, or shall be otherwise accessory to the collection of toll by any person not duly appointed as aforesaid, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

Penalties for infringement of the Ordinance by passenger.

19. If any person liable to payment of tolls shall pass from any road over any land near or adjoining thereto (not being a public highway), with intent to evade such payment, or shall fraudulently or forcibly pass or take his vehicle, animals, goods, or boat, by, over, or through any place duly appointed for the collection of tolls, or shall resist or make forcible opposition against any person duly appointed to collect tolls in the execution of his office; or if any person shall wilfully or maliciously damage any bar, boat, bridge, or other thing employed for the purpose of collecting tolls, or shall wilfully or maliciously remove, deface, alter, or damage any copy of section 2 of this Ordinance, or the notice suspended as hereinbefore directed; or if any person other than a person duly appointed to collect tolls shall give, or if any person shall receive from any person other than a person duly appointed as aforesaid, or shall forge, counterfeit, or alter any ticket or certificate of payment or exemption with intent to evade or reduce the payment of any toll, or if any person shall do any other act whatsoever in order to evade or reduce the payment of any toll, and whereby the same shall be evaded or reduced, every such

person shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

20. If any person, not being a duly appointed toll-keeper, shall convey any goods, vehicle, or animal, not being his property, or any passenger not in his service, across any river or stream, by any boat or other means either at or within a distance of one mile above or below any road, bridge, ferry, canal, or place at which tolls shall be leviable, such person shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding fifty rupees.

Prohibition for employment of private boat.

21. It shall not be lawful for any person in order to avoid payment of any toll, whether in whole or in part, to remove or cause to be removed any goods from any animal, vehicle, or boat on one side of any ferry, canal, or place appointed for the collection of tolls, to any other animal, vehicle, or boat on the opposite side thereof, unless after payment of toll upon the animal or vehicle on or in which the same shall have been so brought as a loaded animal or vehicle; nor for any person to unload or cause to be unladen any goods from any animal or vehicle upon which the same shall have been brought to any ferry or place appointed for the collection of tolls, and to load or cause the same to be reladen upon such animal or vehicle after it shall have passed such ferry or place, unless after payment of toll upon such animal or vehicle as a loaded animal or vehicle; and any person acting contrary to the provisions of this section shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees.

Toll payable on transfer of goods at toll station

MISCELLANEOUS

22. Nothing herein contained shall be held to affect the power of any Municipal Council to impose tolls within the limits of the Municipality, with the sanction of the Minister, as provided by the Municipal Councils Ordinance, or any other enactment to be in that behalf hereafter enacted, and when any Municipal Council shall so establish tolls, or when tolls shall have been made over, or shall hereafter be made over to any Municipal Council, they shall be

Municipal tolls.

empowered to appoint toll-keepers, and the provisions of this Ordinance shall, unless altered or modified by the by-laws of any Municipal Council, apply to the tolls so established or made over as if those tolls were specified in this Ordinance.

Ordinance, unless the same shall be commenced within one month from the time of the commission of such offence.

Minister may make over any existing or future tolls to any Urban Council or Town Council.

23. (1) It shall be lawful for the Minister to make over to any Urban Council or Town Council any existing or future tolls lawfully established.

26. It shall be lawful for the Magistrate, should he see fit so to do, to award any portion of the fine actually recovered and realized under any of the provisions of this Ordinance, not exceeding one-half thereof, to the informer.

(2) In any such case all the provisions of this Ordinance shall apply to all tolls so made over, and for the purpose of such tolls all references to the State in this Ordinance shall be construed as though they were references to the Urban Council or Town Council in question and all references to a Government Agent or Assistant Government Agent shall be construed as though they were references to the Chairman of the Urban Council or Town Council in question; and any such Urban Council or Town Council may exercise the same remedies and rights of suit at common law or otherwise with respect to such tolls as the State may exercise with respect to tolls under this Ordinance.

27. Whenever by the conditions of sale under which the exclusive right to levy and collect tolls in respect of any ferry or canal is sold by the State it has been or shall be stipulated, whether before or after the passing of this Ordinance, that on default by the purchaser (hereinafter called "the renter") in the performance of all or any of the conditions contained in the said conditions of sale—

(3) All sums collected or received in respect of any toll so made over shall be retained by the Urban Council or Town Council in question, and appropriated for the purposes of its general administrative expenses.

(a) the Government Agent shall be at liberty to resell the said exclusive right or so much of the term thereof as may be unexpired ; or

Transfer of ferries to Village Council control.

24. It shall be lawful for the Minister by Order published in the Gazette to declare that as from a date there specified any ferry in respect of which a toll is levied or established under or by virtue of this Ordinance shall for all purposes be deemed to be a ferry constructed, regulated or protected under the Village Councils Ordinance; and from such date the provisions of this Ordinance shall not affect such ferry but its maintenance, regulation and protection, the imposition of tolls in respect thereof and all other matters concerning it shall be governed by the Village Councils Ordinance.

(b) the Government Agent shall be at liberty to re-enter upon the said exclusive right or so much of the term thereof as may be unexpired, and the same again to have, collect, receive, retain, and enjoy on behalf of the State as of its former estate, and to expel the renter or his administrators or executors and all others therefrom as to the said Government Agent shall seem meet; or

Limitation of prosecution.

25. No prosecution shall be instituted against any person for any offence committed against the provisions of this

(c) the Government Agent may exercise both the said liberties of reselling or re-entering upon the said exclusive right in such manner as he may think fit,

it shall be lawful for the Government Agent, upon default being made by the renter as aforesaid, to exercise the said liberties or any of them in manner hereinafter appearing.

28. The Government Agent shall give fourteen days' notice in writing to the renter in the form A in Schedule E and upon the expiry of such notice it shall be lawful for

the Government Agent, without process of law or decree or order of any court in that behalf authorizing him, forthwith to resell the said exclusive right or the unexpired term thereof in such manner as the Minister may direct, or to re-enter into possession thereof and receive, retain, and enjoy the same, or after such re-entry at such time or times as to the said Government Agent shall seem fit to resell the unexpired term of the said exclusive right:

Provided always that if in the event of the resale of the exclusive right or so much of the term thereof as may be unexpired under the provisions of this Ordinance no bidder shall attend at such resale, or the Government Agent shall in his discretion refuse to accept any of the bids made at such resale, it shall be lawful for the said Government Agent forthwith to re-enter into possession of the said exclusive right and collect the tolls in aumany until the expiry of the period for which the said exclusive right was purchased, or until such time as he may effect a resale of the unexpired period of the said exclusive right.

Notices how given

29. Every notice in writing issued under the provisions of this Ordinance may be given by forwarding it by post in a registered letter addressed to the renter at the place which the renter in pursuance of the conditions of sale has specified for the service on him of notices or processes, or by serving the same on him personally or by affixing it on his last known place of residence. Where such notice is given by registered letter the period therein named shall be computed from the day next following the day on which the letter was registered.

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

"boat" includes *pada* boats, *battel*, lighter, single or double canoe, scooped dhoney, *ballam*, raft, tug, *catamaram*, *kulla*, and all other boats, whether made in Sri Lanka or in any other country ;

"estate" means any land in which labourers are employed, and of which ten acres or more are actually cultivated;

"horse " includes pony, ass, or mule;

"load " includes all description of goods, but not passengers;

"ox " includes any bullock, buffalo, or any other beast of burden except an elephant;

"river" includes canals, lakes, estuaries, creeks, inlets of the sea, and any expanse of water;

"vehicle for goods" includes carts, wagons, and all vehicles capable of carrying loads and commonly used for such purpose, although not actually carrying goods at the time ;

"vehicle for passengers" includes carriages, hackeries and vehicles capable of carrying passengers and commonly used for such purpose, though not actually carrying passengers at the time.

SCHEDULE A

[Section 2.]

FERRIES

Western Province

Anguruwatota.
Diggala.
Egoda Uyana.
Gorakapola.
Hanwella.
Henamutla.
Indigahalotupola. across the Kapu-ela.
Kalawcllawa.
Kitulgahawatta.
Molkawa, across the Kukule-ganga,

Mutuwadiya.
Mutwal (Modera).
Naragala.
Paragastota, across the Kapu-ela.
Pasbetal (Wattala).
Pugoda.
Rukgahatotupola.
Udugama.
Weralugastotupola (Forcester).

Central Province

Giddewa.
Gonawatta.
Halloluwa.

Kimbulgantota.
Kundasale.
Weragantota.

Province of Uva

Hembarastota.

Northern Province

Allaipiddy-Pannai.
Arali.
Karaitivu.
Kerative-Sangupiddy, over the
Mahadeva Causeway.
Kokkilai.

Kumulamunai-AndankuIam
Nayaru.
Velanai, between the islands of
Velanai and Pungudutivu.

Southern Province

Atumale.

Eastern Province

Ampilanthurai, across the lagoon.
Arugam Bay, across the lagoon.
Gangai, across the Mahaveli ganga,
Iddimanthurai.
Irrakakandy, across the estuary-
Kaddaiparichchan, across the Kaddaiparichchan Aru.
Kiddanki, across the lagoon.
Kiliveddy, across the Kaiiar Channel.
Kinniya, across Tamblegam Bay.
Kiran.
Kuddikarachchi
Kuruman veli-M and ur.
Manmunai, across the lagoon.

Muthur, across the Kaddi Aru and Valavachan Aru.
Paddiruppu, across the lagoon.
Panichchenkerni, across the lagoon.
Parayan Aru.
Pudaivaikaddumalai, across the Kunchakamban Aru
and Kusavan Aru.
Salapaiaru, across the Maddi Aru and Kala Aru.
Thillaiiar, across the lagoon.
Thimilaitivu.
Thuraineelavanai-Annamaiai.
Uppar, across the Uppar Aru.
Valayaravu.
Verugal, across the Verugal Am.
Yanoya, across the Yanoya Aru.

North-Western Province

Bandirippuwa, over the Gin-oya.
Chilaw-Mutwal.

Kalpitiya-Mutwal.
KaIpitiya-Karaitivu.
Putlatam-Kalpitiya.

Province of Sabaragamuwa

Gurugoda-oya at Anguruwella.
Idangoda.
Illukwatta, over the Kaluganga.
Kadurukotaelia.
Kelani-ganga, at Ruwanwella.

Ketapola.
Kukutegama, over the Kukuluganga.
Mapitigama.
Nawangoda.
Poru-ela.

TOLLS

[Cap.525

SCHEDULE B

[Section 2.]

CANALS

Western Province

Grandpass-St Sebastian.	Kalutara, new canal.
Hendala-Pamunugama.	Negombo.
Kalutara, old canal.	

North-Western Province

Munatupirivu.	Palavi.
Nattandiya.	

SCHEDULE C

[Section 8.]

PLACES AT WHICH TOLLS SHALL BE COLLECTED

Ferries

Western Province

Anguruwalota, at the ferry, on the road from Horana to Angumwatota at the 6th mile-post.

Diggala, at the ferry.

Egoda Uyana, at the ferry.

Gorakapola, at or near the ferry across the Panadura-ganga on the road connecting the old and new Colombo-Galle road, between the 14th and 15th mile-posts, ne* road. Payment within the same day at this station shall clear the toll at the Henamulla ferry, and vice versa.

Hanwella, at the ferry.

Henamulla, at or near the ferry across the Panadura-ganga on the road connecting the old and new Colombo-Galle road, between the 14th and 15th mile-posts on the new road.

Indigahalotupola, at Indigahatotupola.

Kalawellawa, at the ferry on the road from Nagoda to Horana via Mahagama, near the 21 1/4 mile-post.

Kituigahawatta, at the ferry on the road from Alubomulla to Alutgama in Raigam Korale, at the 1 3/4 mile-post.

Molkawa, at Molkawa.

Mutuwadiya, at the ferry.

Mutwal (Modcra), at the ferry.

Naragala, at the ferry, on the road from Nagoda to Horana via Mahagama, near the 33rd mile-post.

Paragastota, at Paragaslota.

Pasbatal (Wattala), at the ferry.

Pugoda, at or near the ferry across the Kelani-ganga on the minor road from Pugoda to Kosgama.

Rukgahatotupola, at the ferry on the road from Panadura to Kesbewa, via Horana, at the 3/1 mile-post.

Udugama, at Udugama, on the road from Leuwanduwa to Udugama, at the 10% mile-post.

Weralugastotupola (Foccester), at the ferry on the road from Warakagoda to Govinna, at the 2/1 mile-post.

Central Province

Giddewa, at the land called Yatiganwela K-umbura along Putuhapuwa-Narampanawa road.

Gonawatta, at the ferry.

Halloluwa, at the ferry.

Kimbulgantota, at the State land called Gantota Ella along Moragahamulla-Kimbulgantota Highways Department road.

Kundasale, at the ferry.

Weragantota, at the ferry.

Province of Uva

Hembarastota.

Northern Province

Allaipiddy-Pannai, at the Pannai end of the ferry.

Arali, at the Araliturai jetty near the 6% mile-post on the road from Jaffna to Araliturai.

Karaitivu, at Karaitivu jetty, Karaitivu.

Kerative-Sangupiddy, at the Kerative end of the ferry.

Kokkilai, at the land to the north of the northern abutment situated at the Kokkilai northern end of the ferry.

Kumulamunai-Andankulam, at the land on the northern side of the river.

Nayaru, at the land to the north of the northern abutment situated at the northern end of that ferry.

Velanai, at the ferry bank at Velanai.

Southern Province

Atumale, at the ferry.

Eastern Province

Ampilanthurai, at Kurukalmadam.

Arugam Bay, at Arugam Bay.

Gangai, at the ferry.

Iddimanthurai, at the ferry.

Irrakakandy, at the ferry.

Kaddaiparichchan, at the ferry.

Kiddanki, at Kiddankithurai.

Kiliveddy, at the ferry.

Kinniya, at the ferry.

Kiran, at the ferry.

Kuddikarachchi, at the ferry.

Kurumanveli-Mandur, at the Kurumanveli ferry.

Manmunai, at Manmunai.
Mulhur. at the ferry-
Paddiruppu. at Paddiruppu.
Panichchenkerni, at the ferry.
Parayan Aru, at the ferry.
Pudaivaikaddumalai, at the ferry.
Salapaiaru, at the ferry.
Thillaiiar, at Panankadu.
Thimiliitivu. at the ferry.
Thuraineelavanai-Annamalai, at the Thuraineelavanai ferry.
Uppar, at the ferry.
Valayaravu, at the ferry.
Verugal, at the ferry.
Yanoya, at the ferry.

North-Western Province

Bandirippuwa. Bandirippuwa at Dummaladeniya.
Chilaw-Muiwal. at the ferry.
Kalpitiya-Mulwal. at the ferry.
Kaipitiya-Karaitivu. at the jetty on Kalpitiya side and on Karaitivu side at St. James' Church during the North-east monsoon and at Mudaliyanturai during the South-west monsoon.
Puttalam-Kalpitiya, at the ferry.

Province of Sabaragamuwa

Gumgoda-oya at Anguruwella, at the ferry. Payment at one ferry to clear the other.
Idangoda, at the ferry.
Illukwatta, at the land called Gangen Egoda Yattowitawatta situated at the Yattowita end of that ferry.
Kadurukotaella, at the ferry.
Kelani-ganga, at Ruwanwella, at the ferry. Payment at one ferry to clear the other.
Ketapola, at the ferry.
Kukulegama. at the ferry on the 25th mile of the Highways Department road from Tiruwanaketiya to Agalawalta.
Mapitigama, at the ferry.
Nawangoda, at the ferry.
Poru-ela, at the ferry.

CANALS

Western Province

Grandpass-Sl. Sebastian canal, at the Grandpass end of the bridge connecting Grandpass with Sedawatta.
Hendala canal, at Hendala and Pamunugama. Payment at one clears the other.
Kalulara—old canal, at Kepu-ela Modera, and at Galtude. Payment of toll at one station within the same day shall clear the other.
Kalutara—new canal, at Hataramodera.
Negombo canal, at or near the bridge (at the entrance of the canal) on the Custom-house road, and at or near the bridge at Pallansena at the junction of the canal with the Kammal ferry. Payment of toll at one station within the same day shall clear the others.

North-Western Province

Munatipirivu canal, at the spot.

Nattandiya canal, at Thummodera bridge on the land called Thummodera Palanalangahawatta.

Palavi canal, about one-eighth mile south of the bridge.

[Section 16.]

SCHEDULE D

FORM OF TICKET

Toll station

No....
Date:....., 19

This ticket clears
Received for . . .
The sum of

Signature.

[Section 28.]

SCHEDULE E

FORM A

I,..... (Government Agent), hereby give you,..... notice that as you are in default in the payment of your instalment of the toll rent at by the amount of Rs. I have advertised the resale of the said rent in terms of your bond of the day of and the conditions of sale of the day of thereto annexed, and shall, unless you shall have paid on or before the day of the balance of the instalment of rent aforesaid, together with any other instalment which may then be due, either sell the said rent at your risk on the day of as advertised, or re-enter into possession of the said rent and collect the tolls in aumany until the expiry of the period for which you purchased the said exclusive privilege or for such time as I may consider necessary, and in such latter case I may at any time during the unexpired portion of the period for which you purchased the said rent in terms of your bond of the day of and the conditions of sale thereto annexed resell the unexpired residue of the said period, holding you responsible for the instalments of rent due from you in respect of the toll up to the date of such re-entry.

Dated this day of 19

(Signed):.....

CHAPTER 187

TELEGRAM COPYRIGHT

Ordinances AN ORDINANCE TO SECURE, IN CERTAIN CASES, THE RIGHT OF PROPERTY IN TELEGRAPHIC PRESS MESSAGES. Nos.19 of 1898. 1 of 1926.

[14th December, 1898.]

Short title. 1. This Ordinance may be cited as the Telegram Copyright Ordinance.

Press messages nol to be published during forty-eight hours after receipt without consent of the receiver. 2. When any person, in the manner hereinafter mentioned, publishes in any newspaper or other printed paper published and circulated in Sri Lanka any message by telegraph from any place outside Sri Lanka, lawfully received by such person, no other person shall, without the consent in writing of such first-mentioned person, or his agent thereto lawfully authorized, print or publish, or cause to be printed or published such telegram, or the substance thereof, or any extract therefrom, until after a period of forty-eight hours from the time of first publication:

Provided that such period shall not extend beyond sixty hours from the time of the receipt of such message (public and bank holidays excepted), and the publication of the whole or any part of such telegram, or of the substance thereof, or (excepting the publication of any similar message in like manner sent) of the intelligence therein contained, or any comment upon, or any reference to, such intelligence, shall be deemed to be a publication of the same.

Unlawful publishing an offence. 3. If any person wilfully print and publish, or cause to be printed and published, any matter contrary to the provisions of this Ordinance, he shall be liable to a fine not exceeding one hundred rupees ; and every person who is convicted a second time of any offence against this Ordinance shall be liable to a fine not exceeding three hundred rupees.

Protected messages how to be printed. 4. Telegraphic messages published under the protection of this Ordinance shall be printed under the heading "Telegram Copyright Ordinance ", and shall state the day and hour of their receipt, and such statement shall be prima facie evidence of the time of the receipt of such messages.

5. (1) During the period of forty-eight hours hereinbefore mentioned, no intelligence protected by this Ordinance shall be transmitted by telegraph to any person outside Sri Lanka by or on behalf of any person other than the person who, under the provisions of this Ordinance, is entitled to the exclusive use of such intelligence.

During forty-eight hours protected intelligence not to be transmitted to any person outside Sri Lanka.

(2) Any person acting in contravention of this section shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees for a first offence, and to a fine not exceeding three hundred rupees for any subsequent offence.

Penalty.

6. In any prosecution under this Ordinance the production of any document which purports to be a telegraphic message from some place outside Sri Lanka, and which contains the intelligence published in the newspapers as aforesaid, and which has been delivered to some person entitled to receive the same by the proper officer of the Department of Telecommunications, shall be prima facie evidence that the message published as hereinbefore described in such newspaper is a message within the meaning of this Ordinance; and proof that any person is owner, or is, or is acting, or appears to be acting, as editor or manager of any newspaper in which there has been any publication contrary to the provisions of this Ordinance shall be prima facie evidence that such person has wilfully caused such unlawful publication.

What to be deemed prima facie evidence of publication of message.

7. Nothing in this Ordinance- shall extend to any document published by the Government Printer, or to the report of any proceedings in Parliament.

Limitation of Ordinance.

8. In this Ordinance, unless the context otherwise requires, the expression " telegraph " includes telephone and wireless telegraph or telephone, and " telegraphic " has a corresponding meaning.

Interpretation.

CHAPTER 578

TOWN COUNCILS*

Ordinances AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF TOWN COUNCILS FOR THE PURPOSES OF LOCAL GOVERNMENT IN SRI LANKA.

Nos. 3 of 1946, 23 of 1946, 53 of 1946, 57 of 1946.

Aels Nos. 9 of 1950, 39 of 1954, 8 of 1952, 38 of 1953, 22 of 1955, 2 of 1957, 28 of 1957, 14 of 1958, 7 of 1959, 9 of 1961, 39 of 1961, 2 of 1967, 8 of 1967, 42 of 1968, 4 of 1969, 48 of 1971.

Laws Nos. 4 of 1975, 24 of 1977.

Arts Nos. 13 of 1979, 57 of 1979.

[15th March. 1946.]

Short title- 1. This Ordinance may be cited as the Town Councils Ordinance.*

PART I

CONSTITUTION OF TOWN COUNCILS

AREAS FOR WHICH TOWN COUNCILS ARE CONSTITUTED

Power to declare towns and to define their administrative limits. 2. (1) The Minister may, by Order published in the Gazette, declare any area, which by reason of its development or its amenities is urban in character, to be a town for the purposes of this Ordinance, and may define the administrative limits of the town so declared. The Minister may, by the same or any subsequent Order, assign a name and designation to the Town Council to be constituted under this Ordinance for the town so declared.

(2) A declaration under subsection (1) may be made by the Minister in respect of two or more areas jointly, notwithstanding

that such areas are not contiguous; and the areas in respect of which any such declaration is made shall accordingly be deemed to constitute jointly one single town for all the purposes of this Ordinance.

3. A Town Council in accordance with the provisions of this Ordinance shall be constituted for every urban area declared to be a town by Order under section 2.

Town Council to be constituted for each town.

4. The Town Council constituted for each town shall, subject to the powers reserved to or vested in any other authority by this Ordinance or by any other written law, be the local authority, within the administrative limits of the town, charged with the regulation, control and administration of all matters relating to the public health, public utility services and public thoroughfares, and generally with the protection and promotion of the comfort, convenience and welfare of the people and the amenities of the town.

Functions of Town Councils.

* See section 18 (2) of the Development Councils Act-

Composition of Town Councils. [§137, Law 24 of 1977.]

5. (1) Each Town Council shall consist of the Chairman and Vice-Chairman and such number of other members, as the Minister may prescribe by Order published in the Gazette.

(2) In determining the number of members the Minister shall have regard to the area and population of the town.

(3) Every Order made under subsection (1) shall as soon as may be convenient be laid before Parliament.

(b) in the case of any general election subsequent to the first general election, on the first day of January next succeeding the date of the election or on such other date as the Minister may appoint by Order published in the Gazette, and shall expire on the thirty-first day of December of the fourth year thereafter (inclusive of the year in which such term of office commenced) or on such other date as may be appointed by the Minister under subsection (2). [§ 2, 2 of 1967.] (§ 2, 39 of 1961.)

[§ 138, Law 24 of 1977.]

ELECTIONS AND DATE OF COMMENCEMENT OF TERM OF OFFICE OF TOWN COUNCILS, Ac.

First general election of members.

*7. Where a Town Council is to be constituted for any town under this Ordinance, a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing the first members of the Council.

(2) The Minister may by Order published in the Gazette—

(a) curtail the term of office referred to in subsection (1) by appointing, in substitution for the thirty-first day of December of the year specified in that subsection, the last day of any month in that year or in the year immediately preceding that year; and

Arrangements preliminary to constitution of Town Council.

8. For the purposes of any preliminary arrangements in connection with the constitution of any Town Council under this Ordinance, it shall be lawful for the Minister, by an Order or Orders published in the Gazette, to issue all such directions as may be necessary or appropriate, or to modify or supplement any of the provisions of this Ordinance in such manner and to such extent as may be specified by him in such Order; and every such Order shall have the same effect in relation to such purposes as if it had been embodied in this Ordinance.

(b) extend such term by appointing in substitution for the thirty-first day of December of the year specified in subsection (1) or the day appointed under paragraph (a) of this subsection, the last day of any month in that year or in any year subsequent to the year so specified or appointed, and thereafter, from time to time, extend such term by appointing, in substitution for the date of expiry of such term specified in the last Order, a later date: [§ 2,2 of 1967.] [§2,2 of 1967.1]

Commencement of term of office of Town Councils and date of constitution of such Councils.

9. The term of office of a Town Council to be constituted for any town under this Ordinance shall commence on such date as the Minister may appoint by Order published in the Gazette. Such date shall be deemed to be the date of the constitution of the Council for all the purposes of this Ordinance; and the Council shall be deemed to be duly constituted on that date, notwithstanding that the full number of members prescribed under section 5 may not have been duly elected.

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is, from time to time, extended shall not exceed twelve months. [§ 2, 2 of 1967

Term of office of members elected at the first and each subsequent general election.

10. (1) The term of office of each member elected at a general election shall commence—

11. Where the term of office of the members elected at the first or any subsequent general election of the members of a Town Council is due to expire under section 10, a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing new members in place of such members. Subsequent general elections,

* Section 6 is repealed by Law No. 24 of 1977.

Refusal, resignation, or Vacation of office.

12. (I) Where any person who is elected as a member of a Town Council decides for any reason not to serve as a member thereof, he may relinquish the office—

- (a) by a written communication of his refusal of office to the elections officer of the district in which the town for which the Council is constituted is situated, at any time before the date fixed for the first meeting of the Council to be held after his election, or
- (b) by a written communication of his resignation of office to such elections officer, either direct or through the Chairman, at any time after such first meeting.

(2) Any member of a Town Council who is absent without leave of the Council from more than three consecutive ordinary meetings of the Council shall *ipso facto* vacate his office.

[§ 140, Law 24 of 1977.]

(3) If any person elected as a member of a Town Council refuses or resigns his office, or dies, or vacates the office under subsection (2), or if a casual vacancy occurs in any other manner in such office, such office shall be filled in accordance with the provisions of written law for the time being applicable in that behalf and the person so elected shall hold office until the next succeeding general election of members of that Council.

[§ 142, Law 24 of 1977.]

ALTERATION OF LIMITS OF TOWNS AND NUMBER OF MEMBERS, Ac.

Power of Minister to vary limits of town and number of members, and to dissolve and replace Council- [§ 143, Law 24 of 1977.]

*14. The Minister may at any time by Order published in the Gazette—

- (a) vary the limits of any town;
- (b) vary the number of members prescribed for any Town Council;
- (c) dissolve any existing Town Council and direct that it shall be replaced by a new Town Council to be

constituted in lieu of such existing Council, whenever it appears to him to be expedient so to do upon any variation of the limits of the town for which the existing Council was constituted ;

- (d) dissolve any Town Council for the purpose of constituting any other local authority in its place.

16. Where any new Town Council is constituted under section 14 in lieu of any Town Council which is dissolved—

New Town Council to be successor of existing Council.

- (a) the new Council shall, from the date of the constitution thereof, be the successor of the dissolved Council for all purposes relating to the town or any part of the town for which the dissolved Council was constituted, in so far as such town or part of such town is included within the administrative limits of the town for which the new Council is constituted;

- (b) all the property of such dissolved Council situated within the administrative limits of the new Council, and all the rights, powers, duties, debts, liabilities, and obligations of such dissolved Council in so far as the same relate to any area within the administrative limits of the new Council, shall, as from the date of the constitution of the new Council, be deemed to be transferred to the new Council;

- (c) all references in any enactment, or in any order, rule, regulation, or by-law made thereunder, or any document or instrument executed or issued in pursuance thereof, to such dissolved Council, shall, for the purpose of any area within the administrative limits of such dissolved Council which shall be included within the administrative limits of the new Council, be construed as though they were references to the new Council;

* Section 13 is repealed by Law No. 24 of 1977,
f Section 15 is repealed by Law No. 24 of 1977.

(d) all the provisions of sections 233 to 241 shall apply to the case of the constitution of the new Council, in the same manner as if all references to any local authority or authorities in such sections were references to the dissolved Council.

(6) During the period commencing on the date of occurrence of a vacancy in the office of Chairman and ending on the date of election of a new Chairman or during the period of absence of the Chairman on account of illness or other unavoidable cause the Vice-Chairman may exercise the same powers and perform the same duties as the Chairman.

MEETINGS AND PROCEEDINGS

Chairman and Vice-Chairman. [§ 146, Law 24 of 1977.]

***19.** (1) There shall be a Chairman and a Vice-Chairman for each Town Council who shall be members and be elected in accordance with the provisions of written law for the time being applicable in that behalf.

(2) The Chairman or Vice-Chairman of a Town Council shall hold office for the term of office of the Council unless he resigns or vacates such office. Whenever a Chairman or Vice-Chairman vacates his office he shall at the same time cease to be a member.

(3) The Chairman of a Town Council shall, subject to the provisions of section 169A, be the chief executive officer of the Council, and all executive acts and responsibilities which are by this Ordinance or any other written law directed or empowered to be done or discharged by the Council may, unless the contrary intention appears from the context, be done or discharged by the Chairman.

(4) The Chairman may by order in writing delegate to the Vice-Chairman or secretary or any other officer of the Council any of the powers, duties or functions conferred or imposed upon or vested in the Chairman by this Ordinance or any other written law.

(5) The exercise, discharge or performance by the Vice-Chairman or the secretary or any other officer of the Council of any power, function, or duty delegated to him by order of the Chairman shall be subject to such conditions and restrictions and limited to such purpose or purposes as may be specified in the Order; and any such delegation may at any time be varied or cancelled by order of the Chairman.

(7) Whenever the office of Chairman of a Town Council falls vacant information of the occurrence of the vacancy shall forthwith be given to the elections officer of the district in writing by the secretary of the Council. Upon the receipt of such information the elections officer shall proceed to fill the vacancy in accordance with the provisions of written law for the time being applicable in that behalf.

2 2 A. Chairman and Vice-Chairman of the Town Council of each town shall, each, during the tenure of his office, be ex officio a Justice of the Peace for that town.

The Chairman and Vice-Chairman to be Justices of the Peace. [§ 3, 28 of 1957.] [§ 33, 48 of 1971.]

23. The Chairman of a Town Council shall preside at all meetings of the Council. In the absence of the Chairman, the Vice-Chairman shall preside, and in the absence of the Vice-Chairman, such member as may be elected by the other members present to be the presiding member for that meeting.

Presidency at meetings.

24. (1) The ordinary meetings of a Town Council shall be held for the despatch of business upon such day or days in every month as may be fixed by the Council.

Meetings of the Council how and when convened.

(2) The Chairman may convene a special meeting of the Council whenever he may consider it desirable and shall, whenever requested in writing by any two or more members of the Council to convene a special meeting for any purpose specified in such writing, forthwith convene a special meeting for that purpose. Two days' notice of the day appointed for any such special meeting shall be given to, or left at the residence of, each member of the Council.

* Sections 17 and 18 are repealed by Law No. 24 of 1977. Sections 20, 21 and 22 are repealed by Law No. 24 of 1977.

Powers of Council to be vested in the majority.
Quorum.

25. (1) The quorum for any meeting of a Town Council shall be one-third of the members of the Council in office on the day of that meeting, or two members, whichever is greater.

[§ 148, Law 24 of 1977.]

(2) All matters or questions authorized by this Ordinance or by any other written law, to be decided by the members of a Town Council shall be decided by the majority of members present and voting at any general or special meeting.

[§ 148, Law 24 of 1977.]

(3) Where the votes of the members present at any meeting are equally divided in regard to any question, the Chairman, Vice-Chairman or other member presiding at the meeting shall, in addition to his vote as a member, have a casting vote.

Appointment powers, and duties of secretary.

26. (1) Every Town Council shall appoint a fit and proper person to be or to act as the secretary of the Council.

[§ 149, Law 24 of 1977.]

(2) The secretary of a Town Council shall be the chief administrative officer of the Council and shall exercise, perform and discharge such powers, duties and functions as are conferred or imposed upon him by this Ordinance or by rules made under section 192 or by any other written law for the time being in force.

[§ 149, Law 24 of 1977.]

(3) In the event of the vacation of the offices of both the Chairman and Vice-Chairman by the death, resignation, removal or any other cause, then, during the period intervening between the vacation of the office of the Vice-Chairman and the election of a new Chairman, the secretary of the Council shall, in addition to the powers referred to in subsection (2), have authority, subject to the approval of the Commissioner and subject to such limitations and conditions as may be prescribed by rules under section 192, to incur expenditure on behalf of the Council, to make payments out of the local fund, and to exercise and perform such of the powers, duties and functions of the Chairman as may be specified by the Commissioner or prescribed by rules as aforesaid.

27. All acts, orders, and proceedings of a Town Council shall be entered in a book to be kept by it for that purpose, and shall be signed by the Chairman for the time being; and all such acts, orders, and proceedings shall then be deemed and taken to be original acts, orders, and proceedings, and any copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice, provided that it purport to be signed and certified as a true copy or extract by the Chairman or secretary of the Council,

Minutes of proceedings of Council to be entered in a book.

28. (1) A Town Council may, from time to time, appoint committees consisting either of members of the Council or partly of members of the Council and partly of other inhabitants of the town, for the purpose of advising the Council with reference to any of its powers, duties, or responsibilities, or any matter under the consideration of the Council, and may from time to time, subject to such instructions or conditions as it may determine, delegate any of its powers or duties to such committees other than the power to raise any loan, to levy any rate, or to impose any tax.

Committees.

(2) For the purpose of any matter in which any Town Council is jointly interested with any other Town Council or with any Urban Council or Municipal Council, it may make arrangements by mutual consent with such other Town Council or with such Urban Council or Municipal Council for the constitution of a joint committee, for the appointment of members of the Council upon such joint committee, and for the delegation to such Joint committee of any of its powers or duties other than the power to raise any loan, to levy any rate, or to impose any tax.

29. Subject to the provisions of section 25 as to the quorum, nothing which is done or determined by a Town Council, under this Ordinance or any other written law, shall be or be deemed to be invalid by reason only of the fact that the full number of members prescribed for that Council under section 5 had not been elected, or that any member was absent from the Council, or that there was any vacancy in the number of the members, at the time such thing was done or determined.

Acts of Council not to be invalidated by vacancies or absence of members.

PART II

STATUS, POWERS, AND DUTIES OF TOWN COUNCILS

Town Councils to be corporations-

30. Every Town Council shall be a corporation with perpetual succession and a common seal, and may sue and be sued by such name as may be assigned to it under this Ordinance.

Lands vested in Town Council.

31. There shall be vested in the Town Council of each town all such immovable property of the following classes, namely :—

- (a) waste lands and open spaces;
- (b) stone, cabook, and gravel quarries;
- (c) public lakes and streams;
- (d) public tanks, ponds, and channels ;
- (e) State lands whether with or without buildings,

as may be situate within the limits of the town and may be or have been handed over, with the sanction of the President or the Governor-General, as the case may be, to the Council, or to any local authority of which the Council is the successor, in the manner described in section 32.

Method of vesting, administration, &c., of such lands.

32. (I) A vesting order, certificate or other record signed by the person or persons authorized to hand over any immovable property referred to in section 31, and by the Chairman of the Town Council or of any local authority of which the Council is the successor, shall be sufficient, and shall be deemed at all times to have been sufficient, to vest such property and all right, title, and interest in such property in the Town Council, or the local authority, as the case may be :

Provided that nothing in this section or in section 31 shall be deemed—

- (i) to affect or prejudice any right or title of the State to any such immovable property, or the right of the State at any time to resume or dispose of such property for public purposes; or

- (ii) to affect or prejudice any right, title, or interest which any military authority, in which lands are vested on behalf of the State, has or may have in any such property ; or

- (iii) to empower the Council to dispose of any such property otherwise than in accordance with such terms and conditions as may be set out in the aforesaid vesting order, certificate or other record relating to such property; or

- (iv) to prevent the Council from surrendering to the State at any time any such immovable property.

(2) All immovable property vested in a Town Council shall be administered, and the revenue thereof shall be employed and made use of for the purposes of this Ordinance.

33. There shall be further vested in each Town Council, for the purposes of this Ordinance, the following classes of property:—

Other property veiled In the Council.

- (a) all public parks, gardens, and open spaces acquired by or otherwise transferred to the Council or any other local authority of which the Council is the successor, and all erections and structures therein and the equipment thereof, subject always to the terms of any trust or the conditions in any instrument by which any such property may have been transferred to the Council or any local authority of which the Council is the successor;
- (b) all public roads, streets, canals, and bridges, (except such roads, streets, canals, or bridges as may be vested in any other authority under any other enactment, or may be specially exempted from the provisions of this section by the Minister by Order published in the Gazette), together with the lands used for the purposes thereof and all the pavements, stones, or other materials thereof, and also all erections, materials, implements, and other things provided therefor;

(c) all public markets and all works, erections or structures for the benefit or convenience of the public which may be constructed, erected, or provided under this Ordinance, or which may have been constructed, provided, or erected under any repealed enactment, or which may be otherwise transferred or have been transferred to the Council or to any local authority of which the Council is the successor, and all the sites, reservations, appurtenances, materials, furniture, and equipment provided therefor, subject always to any such trust or conditions as aforesaid;

(e) all other public buildings constructed or provided in whole or in part out of the local fund of the Council or of any other local authority of which the Council is the successor, or which may be otherwise transferred to the Council, and all the sites, appurtenances, materials, furniture, and equipment thereof, subject always to any such trust or condition as aforesaid ;

(e) the property of and in all the lamps, lamp-irons, lamp-posts, sluices, dams, pipes, posts, chains, piles, rails and other similar erections and things in, about, or belonging to the roads, streets, and public places vested in the Council, and of and in all the materials, furniture, and things belonging thereto, except in so far as the same shall be otherwise regulated by contract with the Council, or shall be otherwise shown to be private property or subject to private rights.

***33A.** No person shall erect a monument on any land belonging to the State or on any land vested in or belonging to any Town Council except with the prior approval of the Minister granted upon an application made in that behalf by such person.

In this section " monument " includes any [§ 9, Law 4 of 1975-] 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.

***33B.** It shall not be lawful for any Town Council 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.]

34. The Town Council of each town shall within the administrative limits of the town have the following duties:— General duties.

(a) to maintain and cleanse all public thoroughfares and open spaces vested in the Council or committed to its management;

(b) to enforce the proper maintenance, cleanliness, and repair of all private streets,

(c) to abate all nuisances.

35. For the purposes of this Ordinance, a Town Council (without prejudice to any other powers specially conferred upon it) shall have the following powers :— General powers

(a) to appoint all necessary officers and servants, subject, however, to the previous approval of the Commissioner in every case where an appointment necessitates the creation of a salaried office in the service of the Council, and subject to the provisions of section 227, from time to time, remove any such officer or servant;

(b) to assign to any office or service such salary, allowances or remuneration as to the Council may seem fit, subject, however, to the previous approval of the Commissioner in every case of the assignment to any office or service of any salary, allowance, or

Control and erection of monuments. [§ 7, Law 4 of 1975.]

* New sections 33A and 33n 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.

remuneration which, either separately or in the aggregate, shall exceed in value the rate of fifty rupees a month;

(c) to spend any part of the local fund on maternity and child-welfare services, the training of midwives for the purposes of any maternity service established by the Council, housing schemes, and charities or measures for the relief of distress caused by rain, floods, fire earthquake, famine or epidemics ;

(d) to enter into any arrangement with any other authority for the employment and remuneration of any officer or servant for the several purposes of the Council and such authority;

(e) to take on lease or to purchase any land or building;

(f) (i) to sell, exchange, let or give out on lease any land or building belonging to the Council or vested in it otherwise than by virtue of section 31 or section 33, subject to the terms and conditions of the instrument by which the land or building was transferred to or vested in the Council, unless the sale, exchange, letting or leasing is prohibited by such instrument;

(ii) to let or give out on lease any land or building vested in it by virtue of the provisions of section 31 or section 33 and not required for any public purpose for the time being, subject to the prior approval of the Minister and subject always to such terms and conditions as may be set out in the vesting order, certificate or record issued or made under section 32, or the will, or the deed or instrument of gift or trust executed by the donor, in respect of such land or building;

(g) subject to the express provisions of this Ordinance, to enter into any contract with any person for any work to be done, or services to be rendered, or goods or materials to be supplied ;

(h) to make by its officers authorized in that behalf and the servants or workmen accompanying them all such entries into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisances, the detection, prevention, and abatement of all contraventions of this Ordinance or of by-laws or rules made thereunder, or for the performance of acts required to be done under this Ordinance in respect of which the owner or occupier of such premises is, or may be deemed to be, in default;

(i) its Chairman or other officer authorized by him, to hold all inquiries which the Chairman may deem necessary for any of the purposes of this Ordinance and for the purpose of all such inquiries, to administer oaths and summon witnesses;

(j) to institute or defend any legal proceedings which the Council may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Council or of the public or of protecting its officers or members in the execution or intended execution of their duties;

(k) generally to do all things necessary for the effective exercise of the powers and duties of the Council.

36. (1) Whenever it appears to the

Chairman of any Town Council that an examination or survey of any private lands, buildings, or premises is necessary for any local public purpose, it shall be lawful for

Power to authorize surveys.

the Chairman to direct any officer or servant of the Council to make such survey, and it shall thereupon be lawful for such officer or servant and his workmen to enter upon such premises and to do thereon any of the following acts:—

- (a) to survey and take levels of such land;
- (b) to dig or bore into the subsoil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such public purpose ;
- (d) to set out the boundaries of any land which is to be acquired, or street lines, or the lines of any work proposed to be carried out;
- (e) to mark such levels, boundaries, or lines by placing permanent marks on existing buildings, trees, posts, walls, fences, or other fixed objects, or by fixing new marks, or by cutting trenches, as the case may require;
- (f) and where otherwise a survey cannot be completed, or levels taken, or the boundaries and lines marked, to cut down and clear away any obstructions interfering with the execution of such work ;

Provided that full compensation shall be paid for any damage done ;

Provided, further, that no person shall enter any building or any enclosure attached to a dwelling house except with the written consent of the occupant, or if such consent is withheld, with the sanction of the Chairman.

(2) Every mark fixed on any land under this section shall be deemed to be the property of the Council.

37. Any contract for any of the purposes of this Ordinance involving an expenditure exceeding five hundred rupees shall be

reduced to writing, shall be signed by the Chairman, and shall specify—

- (a) the work to be done, the services to be rendered or the goods to be delivered:
- the materials to be used ;
- (c) the price to be paid for such work, service, goods, or materials;
- (d) the time or times within which the work or service is to be done, or the goods or materials are to be furnished ; and
- (e) the penalty to be imposed in case of a breach of the contract.

38. (1) The Chairman shall not enter into any contract on behalf of the Council for any work or service the cost of which exceeds two hundred and fifty rupees, or any contract enduring for a longer period than the time elapsing between the making of such contract and the end of the financial year, without the sanction of the Council.

Consent of Council. [§ 150, Law 24 of 1977.]

(2) If the Council fails to sanction any contract the Chairman may with the approval of the Commissioner enter into such contract notwithstanding the provisions of subsection (1).

39. A Town Council shall not, under section 38, give its consent to the Chairman of the Council to enter into any contract on behalf of the Council which involves an expenditure exceeding two thousand rupees for the execution of any work, for the rendering of any service, or for the supply of any goods or materials, without the previous sanction of the Commissioner. If the Commissioner refuses to give his sanction, the Council may appeal against such refusal to the Minister. The Minister may, on such appeal, confirm the decision of the Commissioner or order him to give his sanction, as the Minister may think fit, and it shall be the duty of the Commissioner to comply with such order.

Consent of Comissioner-

Contractrs

Application of section 39. [§2, Sof 1952.]

40. (1) Notwithstanding anything in section 39 but subject to subsection (2) of this section, the sanction of the Commissioner shall not be required before any contract referred to in that section is entered into on behalf of any Town Council.

(2) The Minister may in his discretion by Order published in the Gazette declare that subsection (1) of this section shall not apply in relation to contracts to be entered into on behalf of any Town Council specified in the Order; and so long as such Order is in force the provisions of section 39 shall apply in relation to contracts to be entered into on behalf of that Council in like manner as though subsection (1) of this section had not been enacted.

Advertisement for tenders.

41. Before entering into any contract which involves an expenditure exceeding five hundred rupees for the execution of any work, for the rendering of any service, for the supply of any goods or materials, or for any other matter necessary for the purposes of this Ordinance, the Chairman shall call for tenders by advertisement, unless otherwise authorized by a resolution of the Council.

Acquisition of lands or buildings for general public purposes.

42. A Town Council may acquire lands or buildings for the general purposes of the Council without indicating the purposes for which any land or building is to be applied.

Compulsory acquisition of lands and buildings.

43. Any land or building required for the purposes of a Town Council may be acquired under the Land Acquisition Act by the Government for the Council.

Power of Town Council to act as trustee for any public purpose.

44. A Town Council may receive and hold any property in trust for the benefit of the inhabitants of the town for which it is constituted, or any section of such inhabitants, or for the purpose of any public service administered by the Council, and may otherwise act as trustee for any public purpose.

PART III

POWERS AND DUTIES AS TO THOROUGHFARES

THOROUGHFARES

45. (1) Subject to the powers and responsibilities by law committed to any other authority, the Town Council of each town shall be the general administrative authority for the purpose of all thoroughfares and communications, other than principal thoroughfares, within the administrative limits of the town, with all such powers as are vested in it under this Ordinance, the Housing and Town Improvement Ordinance, and any other enactment, from time to time, enacted in that behalf.

Town Council to be the general authority for thoroughfares and communications.

(2) Subject to such directions as may be given by the Minister, from time to time, by Order published in the Gazette, the Town Council of each town shall be the administrative authority for the purposes of the protection of any principal thoroughfare that may be situate within the town, and shall be entitled for such purposes to exercise or perform in relation to any such principal thoroughfare any of the powers or duties conferred or imposed by sections 71 to 91 (both inclusive) relating to buildings along thoroughfares, obstructions to thoroughfares, encroachments on thoroughfares, injuries to thoroughfares and nuisances on thoroughfares.

46. Subject to the powers and responsibilities by law belonging to any other authority, it shall be the duty of the Town Council of every town, and every such Council is hereby empowered, to take all necessary measures for securing and maintaining all public rights, interests, and amenities arising out of or in connection with all thoroughfares or open spaces within the town, and for utilizing, regulating, adapting, and developing such thoroughfares or open spaces for public purposes.

General powers of Council with regard to thoroughfares and open spaces.

47. All thoroughfares within a town, other than principal thoroughfares, except in so far as such thoroughfares are already so vested by virtue of any other enactment, shall be deemed to be vested in the Town Council of that town,

Thoroughfares vested in Town Council.

Prescription, **48.** Neither the provisions of the Prescription Ordinance, nor those of any other law relating to the acquisition of rights by virtue of possession or user, shall apply in the case of the roads within any town ; and no person shall be entitled to any exclusive rights of ownership, possession or user over or in respect of any such road or any portion thereof by reason of his having, either before or after the coming into operation of this Ordinance, had possession, or use of any description whatsoever, of such road or portion thereof.

Language of notices. **49.** All notices required to be given under this Part shall be in the Sinhala and Tamil languages.

Notices how served. **50.** Every notice required to be given under this Part to any person may be served either personally upon such person, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Control of roads and paths in charge of minor local authority. **51.** It shall be the duty of the Town Council of every town, and every such Council is hereby empowered, to supervise and control the course and development of all public roads and paths within the town.

Power of Town Council to construct new, and improve existing, thoroughfares. **52.** The Town Council of each town may within that town—

- (a) lay out and construct new roads, streets, bridges, or other thoroughfares;
- (b) widen, open, or enlarge any street or other thoroughfare (not being a principal thoroughfare);
- (c) turn, divert, discontinue, or stop up, whether in whole or in part, any public street or other thoroughfare (not being a principal thoroughfare),

making due compensation to the owners or occupiers of any property required for such purposes, or any person whose legal rights are thereby infringed.

Acquisition of lands required for diversions or enlargements. **53.** (1) If in connexion with the turning, diversion, widening, opening, enlargement, or improvement of any thoroughfare, it becomes necessary for any

Town Council to take possession, for public use, of the land of any person, it shall be lawful for such Council to make an agreement with the owner for the compensation to be paid for such land, and for any building, boundary wall, gateway, fence or tree standing thereon, either by allowing him to possess the ground, or part of the ground, of the former thoroughfare, or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(2) Any land of which possession is taken by a Town Council in pursuance of any agreement under subsection (1) shall vest in the Council without any formal transfer thereof, and the certificate of the Government Agent or the Chairman of the Council that any person has been allowed by the Council to possess any part of the ground of any former road or any land given in exchange under subsection (1), together with a survey thereof, shall be a sufficient proof of the right of such person to such ground or land.

(3) Where a Town Council cannot agree with the owner of any land as to the compensation to be made under subsection (1), or where such owner cannot be found, or where the Council does not deem it advisable to enter into any agreement with the owner of any land, then proceedings may be taken to obtain possession of such land, and for compensating the owner, in the manner prescribed by section 43.

(4) Every agreement under subsection (1) shall be in writing, but section 2 of the Prevention of Frauds Ordinance shall not apply to any such agreement or to any certificate issued under subsection (2).

54. If in connection with the turning, diversion, widening, opening, enlargement or improvement of any thoroughfare, it becomes necessary for any Town Council to take possession of the land of any person for public use, and if the person claiming to be the owner of the land desires to make a free gift of the land to the Council for such purpose and to renounce all claim to compensation therefor, a record in writing to that effect duly signed by such person in

Gifts of land required for diversion or enlargement of thoroughfares.

the presence of the Chairman or of a person authorized by the Chairman in writing in that behalf shall be sufficient to vest the land in the Council. No such record shall be deemed to be invalid or of no effect in law by reason only that the requirements of section 2 of the Prevention of Frauds Ordinance have not been complied with as to attestation by a notary public and by witnesses.

- (3) to paint up the names of streets and the numbers of houses or tenements on any private property; [§ 5, Law 4 of 1975.]
- (4) to shut up and secure deserted houses:
- (5) to recover in manner hereinafter provided the expenses incurred by any action taken under paragraphs (2) and (4) hereof from the person whose act or neglect shall have rendered such action necessary.

Power to dispose of discontinued street.

55. Whenever any street or other thoroughfare or any part of any street or thoroughfare vested in a Town Council ceases to be used as a street or thoroughfare, the Council, with the prior approval of the Minister, may sell lease, or exchange such street or other thoroughfare or part thereof.

57A. The Minister shall, either of his own motion or on application made in that behalf by a Town Council, determine the name by which any street shall be known and in like manner at any time alter the name of any street. Naming of streets. [§ 5, Law 4 of 1975.]

Power to take land adjoining new street for building purposes.

56. In laying out or constructing any new street or thoroughfare, or in turning, diverting, widening, opening, enlarging, or otherwise improving any street or thoroughfare, a Town Council may, in addition to the land required for the purposes of the carriageways and footways thereof, also purchase the land necessary for houses and buildings to form the said street or thoroughfare, and may sell, lease, or otherwise dispose of the same, subject to the provisions of paragraph (/) of section 35 and subject to such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as the Council may think fit.

58. The Town Council of any town may, at the request of the owner or owners of any one or more estates or industrial enterprises situated within the town, in any case in which the Council is of opinion that the public interests would not otherwise justify the construction or maintenance of a road in such a locality, contract with such owner or owners for the construction or maintenance of a road for the service of the estate or estates, or the enterprise or enterprises in question, subject to the payment of such contribution towards the expenses Of such construction or maintenance as may be approved by the Council and subject to the condition that by an appropriate instrument such road is constituted a public road and is vested in the Council, and all such agreed contributions shall be deemed to be special rates imposed upon the lands benefited, and shall be recoverable in the same manner as a rate imposed under this Ordinance, and all the provisions of this Ordinance relating to rates shall apply thereto. Roads for benefit of individual property owners-

Other powers of Town Council.

57. It shall be lawful for the Town Council of any town, without prejudice to any other powers vested in it, to do any of the following acts:—

- (1) to water the streets;
- (2) to remove encroachments and obstructions in or upon any street or thoroughfare subject to the conditions that where the person responsible therefor is known to the Council, such action shall be taken by the Council only after notice has been given to him, and he fails to remove such encroachments or obstructions within such time as may be specified in the notice or with due diligence;

59. If any house, building, boundary wall or gateway adjoining any street or thoroughfare in any town, or anything affixed thereon, be deemed by the Town Council of that town to be in a ruinous state, whether dangerous or not, or to be likely to fall, the Council shall immediately, if it appears to be necessary, cause a proper hoarding or fence to be put up for the Houses in a ruinous and dangerous slate.

protection of persons using such street or thoroughfare, and shall cause notice in writing to be served on the owner or occupier forthwith to take down, secure, or repair such house, building, boundary wall, gateway, or thing affixed thereon, as the case may require.

Failure to comply with notice.

60. If any person, on whom a notice is served by or on behalf of a Town Council under section 59, does not begin to comply with such notice within three days of the service thereof or does not complete the work with due diligence, the Council shall cause all or so much of the work as it may think necessary to be carried out, and all the expenses incurred by the Council shall be paid by such person and shall be recoverable as hereinafter provided.

Sale of materials of ruinous houses.

61. If any house, building, or wall, or any part thereof be pulled down by any Town Council under section 60, the Council may sell the materials thereof, or so much of the materials as may have been taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, pay any surplus arising from such sale to the owner of such house, building, or wall:

Provided always that, in case no demand for such surplus is made within twelve months by any person entitled to make such demand, the Council shall be at liberty to pay the amount of such surplus to the credit of the local fund, and shall be freed from any liability to pay or answer for or in respect of such unclaimed surplus ;

Provided, further, that the Council, notwithstanding that it may have sold such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the expenses as may remain due after the application of the proceeds of the sale, as by this Ordinance are given to it for compelling the payment of the entirety of the expenses.

MAINTENANCE AND REPAIR OF THOROUGHFARES

Proper officers empowered to enter upon lands for repair, &c.. of thoroughfares,

62. It shall be lawful for the proper officer of the Town Council of any town and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper

carriages, carts, animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare within that town, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing, under the provisions of this Ordinance.

Power to take materials.

63. It shall be lawful for the proper officer of the Town Council of any town, and for the servants, workmen, and labourers employed by or under him, at all reasonable times, and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended thoroughfare in that town; or of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith; or for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the land of any person, without being deemed a trespasser :

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn or any inclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common or

abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure them ;

Provided also that reasonable compensation for all materials so taken, and for the damage done in taking and carrying away the materials, shall be made to the owner thereof;

Provided, further, that such officer shall rail or fence off any quarry or pit from which any such materials may be taken, so that it may not be dangerous to any person or animal.

Power to erect buildings and keep cattle, &c

64. It shall be lawful for the proper officer of the Town Council of any town when tracing, measuring, making- working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare within the town, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith—

- (a) to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and
- (b) to keep all such animals as may be employed by him duly tethered and stabled upon any lands near or adjacent thereto, and to continue so to keep the animals on such lands for such time as may be necessary:

Provided that no such building shall be erected, nor any such animal kept on any land which is under cultivation or is situated in any area where there are neighbouring waste lands or common or abandoned grounds available for the purpose ;

Provided, further, that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

65. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving of any existing or intended thoroughfare within any town, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall be lawful for the proper officer of the Town Council of the town to throw upon any lands adjacent or near to the thoroughfare such earth, rubbish, or materials as it may be necessary to remove from the place of any such work:

Power to throw rubbish upon adjacent lands.

Provided that all earth, rubbish or materials thrown upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

66. It shall be lawful for the proper officer of the Town Council of any town to make a temporary road through the grounds adjacent or near to any existing or intended thoroughfare in the town during the execution of any work thereupon or any work in any way connected therewith :

Power to make temporary road.

Provided that such road shall not be made over any ground whereon any building stands or over an inclosed garden or yard.

67. It shall be lawful for the proper officer of the Town Council of any town to cut and remove, and place upon any adjacent or neighbouring land, all trees, bushes, or shrubs and all leaves or branches or roots of trees that shall grow in or overhang any thoroughfare within the town, or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots :

Power to cut trees-

Provided that alt trees, bushes, or shrubs, and all leaves or branches or roots of trees placed upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

Power to put up fences.

61. It shall be lawful for the proper officer of the Town Council of any town to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare within the town, whenever to him it shall appear necessary, and the owner or occupier of each land adjoining such fences, hedges, ditches, drains, or banks shall and he is hereby required to keep them in good and substantial repair and order.

boundary wall, or gateway without giving one calendar month's previous notice in writing to the Town Council of that town.

Power to make and keep open ditches, &c., and to lay trunks. &c.

69. The proper officer of the Town Council of any town shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses along any thoroughfare within the town, and also to make and lay such drains, watercourses, trunks, tunnels, plats, or bridges, as he may deem necessary for the protection, preservation, improvement, repair or construction of any thoroughfare or intended thoroughfare in and through any lands or grounds adjoining or lying near to such thoroughfare or intended thoroughfare,-

(2) Any person neglecting to give the notice prescribed by subsection (1), or to remove any building, boundary wall, gateway or fence erected without such notice when he is required in writing to do so by the Town Council under this subsection, shall be guilty of an offence, punishable with a fine not exceeding fifty rupees, and with a further fine not exceeding twenty rupees for each day he suffers or allows such building, boundary wall, gateway or fence to remain after he is required to remove it as aforesaid.

Power to lay stonef. &c.

70. The proper officer of the Town Council of any town shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any thoroughfare within the town, and to allow such matter to remain there during the time such road is under repair, and for such time before the repairs are commenced and after the repairs are completed, as may be necessary for facilitating the making of such repairs or for preventing damage to such recently repaired road, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such road.

(3) It shall be lawful for the Town Council to remove or cause to be removed any building, boundary wall, gateway, fence, or inclosure, commenced or erected without the notice prescribed by subsection (1), and to recover the costs of such removal in the manner provided in section 83 for the recovery of the costs therein mentioned.

(4) Nothing herein contained shall be deemed to deprive any Town Council of the power, hereinafter conferred on such Council, of removing any such building, boundary wall, gateway, fence, or inclosure, which may subsequently be discovered to be an encroachment on a thoroughfare, notwithstanding that no proceedings may have been taken by the Council on the notice given in respect of such building, boundary wall, gateway, fence or inclosure under subsection (1).

Notice of intended building along a thoroughfare.

71. (1) It shall not be lawful for any person to commence any building, boundary wall, gateway or fence along any thoroughfare within any town, or to erect any temporary fence or inclosure on any such thoroughfare for the purpose of commencing or repairing any such building,

72. (1) Nothing contained in section 71 shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, or to prevent the Town Council of any town from granting a licence to the inhabitants of the town for the erection of temporary fences and inclosures on any thoroughfare, in connection with the building, pulling down, or repairing of their houses and other buildings, or for temporary decorations

Erection of temporary fences and inclosures.

BUILDINGS ALONG THOROUGHFARES

within the town, on such terms and conditions as the Council may deem proper, including conditions as to—

- (a) the length, breadth and height of such inclosures;
- (b) the space to be allowed for carriages and carts, or boats, to pass along the thoroughfare; and
- (c) the exhibition by the person obtaining such licence, daily between sunset and sunrise throughout the period during which the fence or inclosure is maintained or continued by him, of a light sufficient to indicate clearly the exact situation of the fence or inclosure or any obstruction caused thereby.

(2) Every holder of a licence granted under subsection (1) who commits a breach of any of the conditions of such licence, and every person who removes or extinguishes any light placed and kept in accordance with the requirements of the conditions of such licence, shall be guilty of an offence, punishable with a fine not exceeding ten rupees.

Building limits along roads.

73. (1) Notwithstanding anything contained in the Housing and Town Improvement Ordinance, it shall not be lawful for any person—

- (a) to erect any building, boundary wall or gateway within a limit (hereinafter referred to as the "building limit") of twenty-five feet from the centre of any road which is used or intended for vehicular traffic within any town and in respect of which street lines providing for a roadway exceeding fifty feet in width have not been defined under section 19 of the Housing and Town Improvement Ordinance; or
- (b) except under the authority of a licence granted by the Town Council of the town, to re-erect or

to make any addition to any such building, boundary wall or gateway within such limit;

Provided always that nothing in this subsection contained shall apply to any repairs effected in any building, boundary wall or gateway existing at the date of the constitution of the Town Council, or in the case of—

- (i) any street which is intended for foot traffic only and is not less than twenty feet in width ; or
- (ii) any back lane or other service passage which is intended only for the purposes of scavenging or conservancy or other special sanitary purpose and is not less than ten feet in width,

where such street, lane or passage has been defined or approved by the Town Council.

For the purposes of the foregoing provisions of this subsection, "repairs" shall not be deemed to include any work of re-erection or reconstruction or the addition of any new part.

(2) It shall be the duty of every Town Council, within three years after the date of the constitution thereof or within such further period as may in the special circumstances of any case be allowed by the Minister—

- (a) to demarcate by permanent marks the building limit prescribed by subsection (1) on every road referred to in that subsection;
- (b) in the case of each road on which the building limit has been so demarcated, to ascertain and record the value of each building, boundary wall, or gateway or part thereof situate or extending within such limit; and
- (c) in the case of any road on which the building limit has not been demarcated, to ascertain and record

the value of each building, boundary wall or gateway in respect of which a licence under subsection (1) is granted by the Council for the purposes of any re-erection or addition.

(3) The value of any building, boundary wall or gateway shall, for the purposes of subsection (2)—

- (a) be fixed by agreement between the Town Council and the owner or owners of the building, boundary wall or gateway ; or
- (b) where it is not so fixed by agreement, be determined by the arbitration of two arbitrators, one nominated by the owner or owners of the building, boundary wall or gateway, and the other by the Town Council, or if such arbitrators cannot agree upon the said value, by an umpire chosen jointly by the two arbitrators.

(4) In determining the value of any building, boundary wall or gateway or any part thereof for the purposes of subsection (2), the following principles shall be followed:—

- (a) where any building, boundary wall or gateway, or any part thereof the removal of which would render the remaining part useless, is situated within the building limit of any road, and where, for that reason, at the time of the widening of the road the removal of the entire building, boundary wall or gateway will become necessary, the value of the entire building, boundary wall or gateway shall be determined ; and such value shall be the difference between the market value of the premises, that is to say, of the building, boundary wall or gateway together with the land attached thereto, at the time of the demarcation of the building limit, and the market value at that time of the land as distinct from the building, boundary wall or gateway;

(a) where only a part of a building, boundary wall or gateway is situated within the building limit of any road, and after the severance and removal of such part the remaining part will be capable of adaptation either to the original purpose of the building, boundary wall or gateway or to any other purpose permitted by law, the value of the part within the building limit shall alone be determined ; and such value shall be the aggregate of—

- (i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway; and
- (ii) the estimated cost, in the case of a building, of adapting the part of the building which will then remain to the purpose for which the building is used at the time of the demarcation of the building limit, and in the case of a boundary wall or gateway, of completing such additions or repairs as may be necessary;

(c) where, at the time of the demarcation of the building limit on any road, the value of any building, boundary wall or gateway is found to have been increased by any alteration or improvement effected in the building, boundary wall or gateway after the date of the constitution of the Town Council, then notwithstanding that the alteration or improvement may have been authorized by a licence under subsection (1), the amount of the increase shall not be taken into account unless the alteration or improvement was necessary for the maintenance of the building, boundary wall or gateway in a proper state of repair.

(5) The value of each building, boundary wall or gateway or part thereof situate within a building limit, fixed or determined as provided in subsection (3), shall be recorded in the office of the Town

Council together with all agreements or awards by which the value so recorded may be verified ; and the value so recorded shall be deemed to be the value of such building, boundary wall, gateway, or part, for the purposes of section 77 relating to the compensation payable in respect of any subsequent acquisition thereof.

(6) For the purpose of demarcating the building limit of any road it shall be lawful for any officer, servant or workman of the Town Council to enter upon any private land adjoining the road and to erect permanent marks at convenient places, taking all such precautions as may be necessary to ensure that as little damage as possible is caused to the land. Compensation shall be paid by the Council for any damage so occasioned.

(7) Where the building limit of any road has been demarcated under this section, nothing in any of the other provisions of this Ordinance shall be deemed to preclude the Town Council from letting or leasing any part of the road not included within such building limit for the purpose of affording building facilities along the road, or from using or permitting the use of any such part for any public purpose.

(8) Nothing in this section shall apply to, or in the case of, any road in respect of which street lines providing for a roadway exceeding fifty feet in width have been defined under section 19 of the Housing and Town Improvement Ordinance.

74. (1) Upon application made in that behalf by the owner or occupier of any property affected by the building limit specified in section 73, it shall be lawful for the Minister, by Notification published in the Gazette, to modify the building limit in respect of the road, or the part of a road upon which such property abuts; and for the purposes of the provisions of this Ordinance relating to the building limit along roads, the building limit along such road or part of a road shall be the building limit so modified by the Minister.

(2) Where after the values of the buildings, boundary walls or gateways or part thereof situated within the building

limits of any road are ascertained and recorded by a Town Council, the Minister modifies the building limit under subsection (1) in respect of the whole road or any part thereof, it shall be the duty of the Council to vary or adjust the values so recorded in such manner as may be rendered necessary by such modification of the building limit: and every variation or adjustment of such values shall be made in accordance with the provisions of section 73.

75. (1) It shall be a condition of any licence granted by a Town Council under section 73 for the re-erection of or for any addition to any building, boundary wall or gateway within the building limit of any road that in the event of the land on which the building, boundary wall or gateway is situated being acquired at any time thereafter for the purpose of the widening of the road, the compensation payable in respect of such building, boundary wall or gateway shall be the value thereof as ascertained and recorded under that section. The value so recorded shall be set out in the condition in each such case.

(2) (a) Full particulars of every licence containing a condition of the description set out in subsection (1), and of the land and the building, boundary wall or gateway to which the condition relates, shall be entered by the Council in a register to be kept for that purpose at the office of the Council and the Chairman shall cause a certified copy of the entry so made in respect of each land and building, boundary wall or gateway and the conditions of the licence relating thereto, to be registered in the office of the Registrar or Lands. The Registrar of Lands shall register all such copies free of any charge or duty.

(b) Upon the registration of any entry under this subsection, the condition of the licence set out in such entry shall be binding upon the land or building or boundary wall or gateway affected thereby, in accordance with the tenor of such condition, into whosoever ownership or possession the land or building or boundary wall or gateway may at any time pass.

Condition to be attached to all licences under section 73.

Minister to modify building limit.

(c) The register kept at the office of the Council shall be made available for inspection to any person interested, at any time when the office is open for the transaction of business.

(d) The provisions of section 2 of the Prevention of Frauds Ordinance shall not apply to any entry or copy of an entry referred to in this subsection.

(3) Subject to the condition referred to in subsection (2), any person who is otherwise entitled to re-erect or make any addition to any building, boundary wall or gateway shall be entitled to a licence to re-erect or make such addition to such building, boundary wall or gateway within the building limit specified in section 73 :

Provided that no part of the building, boundary wall or gateway so re-erected or added to shall, upon such re-erection or addition, extend nearer to the centre of the road than it so extended in its original condition.

(4) The expression "re-erect", with reference to a building, includes the restoration of any wall forming part of the building or of any support to the building which has been demolished or otherwise destroyed to or within a distance of five feet from the ground, but does not include any operation which, in the opinion of the Town Council, may reasonably be considered to be a repair to the wall or support.

76. If any person erects or re-erects any building, boundary wall or gateway, or makes any addition to any building, boundary wall or gateway within any town in contravention of any of the provisions of section 73, the Town Council of that town shall be entitled to cause such building, boundary wall or gateway, or such addition, to be demolished or removed by any officer or servant, and for that purpose the Town Council shall have the same rights of entry and survey, and shall have the same powers of removal, abatement, and recovery of costs as are vested by this Part in a Town Council for the purposes of the abatement or removal of any obstruction or encroachment or a supposed obstruction or encroachment upon a thoroughfare, and all

the provisions of this Part relating to such obstructions or encroachments, so far as they are applicable, shall apply accordingly with such modifications as may be necessary.

77. (1) Where any land which is situated within the building limit demarcated on a road, and which has been developed by the erection of any building wholly or partly within that building limit, is acquired for the purposes of the widening of that road, the determination of the compensation payable in such case under the Land Acquisition Act shall be subject to the following special provisions, notwithstanding anything to the contrary contained in that Act:—

Principles of assessing compensation in respect of land developed by building.

(a) the value assigned to the building or part thereof, or any boundary wall or gateway, as distinct from the land, shall be the value recorded under section 73 at the time of the demarcation of the building limit;

(b) no compensation shall be allowed in respect of any building, boundary wall or gateway which at any time after the date of the constitution of the Council has been erected in contravention of section 73 or re-erected or added to without the licence required by that section;

(c) the value assigned to the land as distinct from the buildings thereon shall be the market value of the land at the time of the acquisition ;

(d) where the land is only a portion of any premises belonging to any one person or group of persons—

(i) if the remaining portion of such premises is of sufficient depth to admit of its being used as a site for a building of the same character as the building which is to be acquired, the market value assigned to the land shall be one-half of the value at that time of similar land in the vicinity possessing a road frontage ; and

Power of Town Council to deal with building, boundary wall or gateway erected or re-erected in contravention of Ordinance.

(ii) if the remaining portion of such premises is not of sufficient depth for the purpose mentioned in paragraph (i), the market value assigned to the land shall be the value at that time of similar land in the vicinity possessing a road frontage ;

(e) regard shall be had to any increase, in the value of any other land or building belonging to the same owner or owners, which is likely to accrue from any widening of the road carried out after the acquisition of the land or the demolition of any building, boundary wall or gateway situated thereon;

(f) no additional compensation shall be allowed in respect of the compulsory nature of the acquisition whether in the case of the building or in the case of the land.

(2) In any case referred to in paragraph (d) (ii) of subsection (1), the owner shall have the option of requiring the Town Council to acquire the entirety of his premises at the rate at which the portion which the Council originally proposed to acquire was valued under that paragraph.

Power of Town Council to acquire adjacent land for owner of land within building limit.

78. The Town Council of a town may, at the request of any person whose right to build upon any land abutting upon a road within that town is restricted by the building limit demarcated on that road, and who desires to erect a building upon the land, acquire for such owner at his expense any land, situate at the rear of such first-mentioned land and of sufficient extent to afford him building facilities of the same nature as he would have enjoyed but for such restriction. All lands required for any such purpose shall be deemed to be required for a public purpose, and the provisions of section 77 shall apply to the valuation of such land.

OBSTRUCTIONS TO THOROUGHFARES

79. (1) Whenever it appears to any Town Council that any building, inclosure, or obstruction has been raised or made in any thoroughfare under the control of the Town Council, or on any waste or other land immediately adjoining such road and belonging to the State, it shall be lawful for the Town Council by written notice served on the person claiming to be the owner of the premises on which such building, inclosure, or obstruction has been raised or made, to demand the production of every deed, document, and instrument upon which such person founds such claim.

Power to demand production of title deeds.

(2) In any of the following cases, that is to say:—

(a) where the occupier of any premises, not being himself the alleged owner, refuses to give full information respecting the name and residence of the alleged owner upon being requested so to do by the Town Council; or

(b) where the alleged owner of any premises refuses to produce within ten days, after being requested so to do, every deed, document, and instrument upon which he founds his claim to the premises and which is in his possession; or

(c) where the alleged owner of any premises, not being in possession of any such deed, document, or instrument, refuses to give full information to the Town Council, upon being requested so to do, of the name and residence of the person in whose possession they are; or

(d) where any person having in his possession any such deed, document, or instrument refuses to produce it within ten days after having been requested so to do in writing by the Town Council,

every such occupier, alleged owner, or person so refusing shall be guilty of an offence, punishable with a fine not exceeding fifty rupees.

Demand of production of deed to include power of examination.

80. (1) Every deed, document or instrument the production of which is demanded by a Town Council under section 79 shall be produced on the premises to which it relates, or at such other place as the Town Council may require; and the power given by that section to demand the production thereof, shall be deemed to include the power to make such examination and copies of such deeds, documents, and instruments as may be necessary.

(2) Every person refusing or failing to permit any person authorized by the Town Council to examine any deed, document, or instrument, or to take copies thereof, shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

Power to make survey of premises.

81. In any case referred to in section 79 (1), it shall be lawful for any person authorized thereto by the Town Council to make such survey of the premises, on which the building, inclosure, or obstruction has been raised or made, as may be necessary to enable the Town Council to ascertain whether an encroachment has been made thereby upon any thoroughfare or on any State land adjoining a thoroughfare, and for the purposes of such survey to enter upon such premises and upon any other premises whatsoever which it may in his opinion be necessary to enter.

Proof of right to apparent encroachment to rest upon the owner.

82. (1) Whenever it appears to any Town Council that the line of any thoroughfare under the control of the Council has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, the Council shall give notice in writing to the occupier of the land from off which the thoroughfare is alleged or suspected to have been turned, or upon which such stoppage or obstruction or encroachment is alleged or suspected to have been made, that a survey of the premises has been made by the direction of the Council, and is open to the inspection of such occupier at a place to be mentioned in the notice, and that unless within one month from the service of the notice he, or the person under whom he holds, takes legal proceedings for establishing his title to such land, and for preventing the removal of any such

obstruction or encroachment, the Council will proceed with the removal thereof in manner provided by section 83.

(2) If no legal proceedings are taken within the time specified in subsection (1) or being taken are not duly prosecuted, it shall be the duty of the Council to cause any such obstruction or encroachment to be forthwith removed as provided by section 83.

(3) Where legal proceedings are taken, it shall be incumbent on the party claiming to be the owner of the land from off which the line of any thoroughfare is alleged to have been altered or turned, or upon which the stoppage or obstruction or encroachment is alleged to have been made, to prove his title to such land.

83. (1) It shall be lawful for any Town Council, through any person authorized by the Council in that behalf, to give order verbally, or by notice in writing, to any person obstructing or encroaching upon any thoroughfare under the control of the Council, forthwith to remove or abate the obstruction or encroachment; and if any person to whom such order is given refuses or neglects to comply therewith within a reasonable time, or if there be any doubt as to who is the proper person to whom such order should be given, after such notice has been affixed for a reasonable time to such obstruction or encroachment, it shall be lawful for the Council to cause any such obstruction or encroachment to be forthwith removed or abated.

Removal of obstruction or encroachments

(2) For the purpose of removing or abating any obstruction or encroachment under subsection (1), it shall be lawful for the Town Council, or any person authorized in writing by the Council to enter into any house, garden, inclosure, or other premises, together with such persons and with such implements and materials as may be necessary, and to proceed to do or take therein or cause to be done or taken all such acts or measures as may be necessary for such removal or abatement.

(3) The costs incurred by the Town Council in the removal or abatement of any obstruction or encroachment shall be

payable by the person whose failure to comply with an order under subsection (1) caused such costs to be incurred ; and such costs, where they are not paid by such person on demand, shall be certified by the Chairman of the Council to the Magistrate's Court* having jurisdiction over the area where such person resides and shall be recovered by that court in like manner as a fine imposed by the court. All moneys so recovered shall be paid by the court into the local fund of the Council.

(4) Where the removal or abatement of any obstruction or encroachment is effected after the due production of all deeds, documents, and instruments affecting the title to such premises, and such premises are nevertheless adjudged to be the property of the party laying claim to the same, such party shall be entitled to compensation from the Town Council for all loss and injury occasioned thereby; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents, and instruments or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and any such Town Council shall nevertheless have caused the removal of such building, inclosure, or encroachment, then, in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof, such party shall not be entitled to any compensation for any loss or injury occasioned thereby.

INJURIES TO THOROUGHFARES, Ac.

Destroying milestone, bridge, &c.

84. Every person who—

- (1) wilfully or negligently destroys, pulls up, defaces, throws down, breaks, or injures any milestone, mile-post, demarcation stone, demarcation post, lamp-post, or direction post, or any bridge, culvert, parapet, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain or fence belonging to any thoroughfare, or erected at or near any pit or quarry opened or used for getting road materials; or

- (2) wilfully and unnecessarily removes any fence, post, stone, log, or other thing, laid or erected by the direction of any competent authority on or in any thoroughfare, for the temporary prevention of the use thereof, or for preventing danger or injury to persons passing along the same whilst undergoing repair; or

- (3) without the permission of a competent authority, gathers or heaps up, or takes away, any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any thoroughfare; or

- (4) leads or drives any elephant, ox, horse, pig, or other animal or any vehicle from or off or on or into any thoroughfare in such manner as to cause injury to the thoroughfare or shall suffer any such animal to damage the thoroughfare ; or

- (5) being the owner or occupier of any land contiguous to any road, suffers the passage through or into his land of the water from such road, or from any ditch or drain leading therefrom, to be obstructed, or suffers any water, filth, or other substance or thing to flow or run from such land or house into or upon any such road, or suffers any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water; or

- (6) without the previous consent of the Town Council, by any act on his land interferes with the free passage of water along or from any drain or culvert of any road ; or

- (7) hauls or draws upon any thoroughfare any timber, stone, or other thing, otherwise than upon a wheeled carriage, or suffers any timber, stone, or other thing carried principally or in part upon a

* Vide also section 22 of the Judicature Act.

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

wheeled carriage to drag or trail upon such thoroughfare to the damage thereof; or

- (8) makes or causes to be made any dam, ditch, drain, or watercourse upon or across, or otherwise breaks up, or injures, the surface of any road ; or
- (9) erects, sets up, lays down, or constructs, either permanently or temporarily in, along, under, or over any thoroughfare, any post, pillar, lamp, wire, pipe, rails, or other plant, material, or works without the permission of the Town Council, or otherwise than in accordance with the terms and conditions of such permission ; or
- (10) attaches additions to his house so as to project over the outer edge of the side drain of any road, or by means of temporary supports or otherwise exposes goods or wares of any description over any portion of a road or its side drain, or by causing carts to be loaded or unloaded in front of his dwelling in any way injures the side drain,

shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

Using new road for certain time after making.

***85.** Upon the construction of a new thoroughfare or upon the execution of any repair to an existing thoroughfare, it shall be lawful for the Town Council having control of such thoroughfare, by notice exhibited upon or so as to be visible from the thoroughfare, to prohibit the riding or driving of any animal or vehicle on the thoroughfare for a specified period not exceeding one month after the completion of the work of construction or repair; and every person doing any act in contravention of such notice shall be guilty of an offence punishable with a fine not exceeding fifty rupees,

Owner or occupier bound to have bridge. &c., over drain leading to his house.

86. If the owner or occupier of any house or premises adjoining any thoroughfare, by the side of which a drain has been made or excavated, requires means of access to such house or premises from

such thoroughfare, he shall be bound to place over the drain, to the satisfaction of the Town Council, a bridge, platform, or arch, which shall in no case cover less than three feet of the length of such drain ; and it shall be lawful for the Town Council on being satisfied that any person has access from such thoroughfare to any house or premises so situated and that such bridge, platform, or arch should be provided, to call upon the owner or occupier of the house or premises forthwith to construct such bridge, platform, or arch, and if he fails to do so within a reasonable time, to cause the work to be done. and to recover the costs thereof in the manner provided by section 83 for the recovery of the costs therein mentioned.

***87.** Any person who allows any tree, upon any premises of which he is the owner or of which he is in occupation, to grow in such a way as to cause injury to any thoroughfare, after the service of a notice upon him by the Town Council calling upon him to take the necessary measures to abate such injury, and after the expiration of such reasonable time as may be specified in the notice for the purpose, shall be guilty of an offence, punishable with a fine not exceeding fifty rupees, and in any such case the Magistrate* before whom the offender is convicted may, in default of the necessary measures being taken by the offender, direct that such measures shall be taken by the Town Council, and that the costs thereof shall be recovered in the manner provided in section 83 for the recovery of the costs therein mentioned.

Allowing trees to grow in such a way as to injure thoroughfares.

88. (I) It shall be the duty of every person who proposes to undertake any such operations for clearing, draining, or opening up any land in the vicinity of any thoroughfare as are likely to cause injury to the thoroughfare, or to impair the condition thereof by reason of any outflow or increased outflow of water or silt—

Damage to thoroughfare through clearing, draining or opening up neighbouring land.

- (a) to give notice in writing to the Town Council of his proposed operations; and

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

(b) in addition to such measures as may be taken by the Town Council, to take at his own expense all such measures as may be reasonably necessary to prevent such injury to or such impairment of the condition of such thoroughfare.

(2) Any person who undertakes any of the operations referred to in subsection (1) without giving the notice required by that subsection, or who otherwise makes default in compliance with the requirements thereof, shall be responsible for any damage occasioned by such operations, and for any expenses incurred by the Town Council for the purpose of preventing or remedying any damage that may be occasioned or apprehended in consequence of such operations, and the amount of any such damage or expenses may be recovered in manner provided in section 83 for the recovery of the costs therein mentioned.

NUISANCES ON THOROUGHFARES. &c.

Offences.

***89.** (1) Every person who within a town turns loose or suffers to be turned loose any elephant, ox, buffalo, horse, sheep, goat, or other animal on to or into any thoroughfare, or so that it makes its way on to or into any thoroughfare; or ties or tethers or suffers to be tied or tethered any animal of any description in any manner which permits it to make its way on to or into any thoroughfare, unless such animal is so tied or tethered during the time required for loading or unloading it, or for the loading or unloading of any cart or boat to which it may belong, shall be guilty of an offence punishable with a fine not exceeding fifty rupees:

Provided that where any such animal is found on or in any thoroughfare, or tied or tethered in such a way that it can make its way on to or into any thoroughfare, such animal shall be deemed to have been turned loose, or suffered to be turned loose, or to have been tied or tethered, or suffered to be tied or tethered, as the case may be, by the owner thereof, unless he satisfies the court to the contrary.

(2) The owner of any pig found tied, straying, burrowing, or wallowing in any road or canal within a town shall be guilty of an offence punishable with a fine not exceeding five rupees; and it shall be lawful for any person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any such road or canal; and such person may, if he choose, take such pig to any peace or police officer of the area in which the offence was committed, and such officer shall forthwith sell the pig, and pay the proceeds of such sale to such person.

(3) Every person who within a town—

(a) hangs up or otherwise exposes any mats, clothes, or any substances of any nature whatever on or at the side of any road in a manner calculated to obstruct the use of the road ;

(b) leaves or permits to be left, on any road any cart or other carriage, without the oxen, horses, or other animal being yoked or harnessed thereto, unless such cart or carriage has accidentally broken down there, and, in case of such accident, for a longer time than may be necessary for its removal;

(c) suffers any vehicle to remain in any road between a quarter of an hour after sunset and a quarter of an hour before sunrise without having attached thereto the lights required by the Vehicles Ordinance, or the Motor Traffic Act;

(d) leaves any boat or raft in any canal in such a way as to obstruct the use of such canal;

(e) leaves or throws any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scourings of any ditch or drain, or other article or thing, on or in any road, river, or canal, and allows such article or thing to remain there, except for such period as may be absolutely necessary for the removal thereof;

¹ Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazelle Extraordinary No. 43/4 of 1979-07-02.

- (f) leads or drives on any road any cart or other carriage with timber, boards, iron, or other goods so that either end of any such goods projects beyond the wheels or sides thereof;
- (g) encroaches on any thoroughfare by making or causing to be made any building, platform, hedge, ditch or fence, or other obstruction upon or in any thoroughfare;
- (h) after having blocked or stopped any cart or other carriage in going up or down a hill or rising ground causes or suffers to be or to remain on any road the stone, timber, or other thing with which such cart or other carriage may have been blocked or stopped;
- (i) in any manner wilfully prevents any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any thoroughfare,

shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(4) Every person who within a town places or continues any kraal or fence or any other obstruction in any canal or river so as to impede or in any way interfere with the convenient navigation thereof, shall be guilty of an offence punishable with a fine not exceeding fifty rupees. It shall be lawful for the Town Council to cause any such kraal, fence, or obstruction so placed or continued to be pulled up or otherwise destroyed, and to recover the cost thereof in the manner provided in section 83 for the recovery of the costs therein mentioned.

Seizure of stray cattle.

90. (1) It shall be lawful for any person thereto authorized by the Chairman of the Town Council of a town to seize any ox, buffalo, horse, sheep, goat or pig which he may find tied, tethered, or straying on or about any thoroughfare within the administrative limits of the town, unless such animal belongs to any cart or boat to which it is tied or tethered whilst the cart or

boat is being loaded or unloaded, and to place every animal so seized in the pound established by the Council for the purpose,

(2) No animal seized under subsection (1) shall be delivered to the owner thereof unless upon payment of the sum of one rupee, or such other sum as the Council may by resolution fix, from time to time, for the use of the person by whom the animal may have been seized, and of a further sum of thirty cents for each day during which the animal may have been kept in the pound.

(3) If no person claims any animal placed in the pound or pays the dues required by subsection (2) within ten days after the seizure of the animal, it shall be lawful for the Council to sell it by public auction, and after payment of two rupees, or such other sum as the Council may by resolution fix, from time to time, to the person by whom the animal was seized and of a sum calculated at the rate of fifteen cents a day for the custody and maintenance of the animal in the pound, to pay any balance of the proceeds of such sale into the local fund established by the Council, and if such balance is not claimed and payment thereof is not obtained by any person entitled thereto within a period of one year from the date of the sale, to pay such balance into the local fund.

(4) The provisions of this section shall have effect in every town to which this Ordinance applies, notwithstanding anything contained in the Animals Act.

***91.** Any person who removes any animal from the lawful custody of any person authorized to seize it under section 90, or under subsection (2) of section 89, or who in any way molests or obstructs such person in the exercise or discharge of his powers or duties, shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate,* be liable to a fine not exceeding fifty rupees.

Interference with cattle seizers or pig seizers.

SPECIAL USER OF THOROUGHFARES

92. Any Town Council may, from time to time, and either independently or in combination with any other Town Council, subject to the terms of any special enactment in that behalf, enter into an

Power of Town Council to authorize the user of public thoroughfares for special purposes.

* Primary Court has exclusive Jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43, 4 of [979-07-02.

agreement with any person or body of persons or any local authority constituted by law (hereinafter referred to as "the promoters"), to authorize such promoters, for the purpose of any supply of gas, electrical energy, water, or other public service (not being a tramway service or any other public vehicular communication service), or any private enterprise or object, to make such user of thoroughfares under the control of the Council other than principal thoroughfares, to make such user of principal thoroughfares with the prior approval of the Minister charged with the subject of thoroughfares, and to execute all such works and to set up or maintain all such erections or plant thereon or therein as may in the opinion of the Council be necessary for the purpose of the effective establishment or maintenance or the modification or development of such public service or such enterprise or object.

By-laws.

93. (I) For the purpose of any agreement referred to in section 92, and for the purpose of securing the observance of the respective rights and obligations of the public, the Town Council and the promoters in connection with any public service or any private enterprise or object to which the agreement relates, the Town Council (except in so far as provision is made by any special enactment in that behalf) may make by-laws—

- (a) authorizing the promoters and their agents, servants, or workmen, or the agents, servants, or workmen of the Council, subject to such conditions as may be prescribed in the by-laws—
 - (i) to break up the soil, metal, and pavement of any thoroughfare vested in the Council;
 - (ii) to open and break up any sewers, drains, or tunnels within or under such thoroughfare;
 - (iii) to erect, set up, or lay down, either permanently or temporarily in, along, under, or over such thoroughfare,

any post, pillar, lamp, wire, pipe, rails or other plant, material, or works;

- (iv) to alter the position of any public line, wire, or other apparatus or plant in or about such thoroughfare for the purpose of any other public service;
- (b) requiring the promoters to do as little damage as may be in the execution of the powers granted by the said by-laws, and to make compensation for any damage which may be done in the execution of such powers;
- (c) requiring the promoters to complete any work which they may be authorized to execute under such by-laws with all convenient speed, and to reconstruct, repair or restore any thoroughfare, sewer, drain, tunnel, or any plant or apparatus which they may be authorized to remove, alter or interfere with in pursuance of such by-laws ;
- (d) requiring the promoters to remove and carry away all rubbish occasioned by their operations, and to cause proper precaution to be taken for the safety of the public in connection therewith;
- (e) prohibiting any interference with or obstruction to any operations authorized by any by-law under this section.

(2) No by-law under this section shall authorize or empower any entry to be made, any material or plant to be erected or deposited, or any work to be executed upon any building or land which is not vested in the Council, without the consent of the owners and occupiers thereof first had and obtained.

94. (I) Where it appears to any Town Council that, having regard to the average expense of maintaining thoroughfares in the neighbourhood, extraordinary expenses have been incurred by the Council in

Expenses caused by extraordinary traffic.

maintaining any thoroughfare of which it has control, by reason of the damage caused or likely to be caused by the carriage of any excessive weight or the passing of any extraordinary traffic thereon, the Council shall be entitled to recover from any person by whose order, or in consequence of whose order, such weight or traffic was carried or caused, the amount of such expenses as may be proved to the satisfaction of a competent court to have been incurred by the Council by reason of the damage arising or likely to arise from such excessive weight or extraordinary traffic, or, where more than one person is responsible for such excessive weight or extraordinary traffic, may recover from each of such persons such proportion of the amount of the expenses so incurred, as in the opinion of the court may fairly be assigned to him.

(2) Any person against whom expenses are or may be recoverable by a Town Council under this section may enter into an agreement with the Council for making payment to the Council by way of composition in respect of such weight or traffic and, where payment is made in accordance with such agreement, no proceedings under this section shall be instituted or maintained against such person.

(3) Proceedings for the recovery of any expenses under this section shall be commenced within twelve months of the time at which such expenses were incurred, or where any expenses incurred are the consequence of any particular contract or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.

POWERS, DUTIES. AND RESPONSIBILITIES OF OFFICERS, &c.

Powers conferred on officers in charge of public works by whom to be exercised.

95. In respect of all thoroughfares other than principal thoroughfares within the limits of the town for which a Town Council is constituted, the Chairman of the Council and all persons authorized in writing by him in that behalf, shall and may by themselves, their servants, workmen, and labourers, exercise the several powers and authorities conferred by this Part on officers in charge of works to which this Part is applicable.

96. If any plan or survey, made by or by the direction of the Town Council or any authority of which the Town Council is the successor, is produced in evidence in any proceeding under this Part, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited therein, in so far as the claim of the Council is concerned, unless the contrary be established by the party contesting such claim.

Survey by proper officer to be conclusive evidence.

97. Every person who sustains any loss or damage by reason of the exercise, by or by the authority of the Chairman of any Town Council, of any of the powers or authorities conferred by this Part upon officers in charge of works to which it is applicable, shall (except where the loss or damage is incurred through the act, default, or neglect of such person) be entitled to receive compensation for such loss or damage, if he makes application in that behalf to the Town Council at any time before the expiration of three months after the claim for compensation has arisen. Where any such person fails to make such application within the aforesaid period, his claim to compensation for the alleged loss or damage shall be disallowed, and he shall be barred from recovering such compensation.

Compensation for injury to property by authorized officers.

98. Where, for any reason, the amount of any compensation payable under section 97 is not agreed upon between the Town Council and the claimant, such amount may be determined by two arbitrators, of whom one shall be nominated by the Council and the other by the claimant. If the two arbitrators cannot agree, they shall appoint an umpire, and the award of the arbitrators or umpire, as the case may be, given in terms of the reference agreed to by the Council and the claimant, shall be final.

Arbitration.

99. If any officer of a Town Council in charge of any work on any thoroughfare, or any person engaged upon any thoroughfare in pursuance of any contract with any Town Council, lays or causes to be laid any heap of stones, gravel, rubbish, or other matter whatsoever upon the thoroughfare, and allows such heap to remain there at night, to the danger or personal damage of any person passing along the thoroughfare (all due and reasonable precautions not having

Officers and contractors leaving stones, &c., on thoroughfares by night.

been taken by him to prevent any such danger or damage), such officer or person shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

deemed to be an executive officer of the Council; but shall in all other respects be under the supervision and control of the Director of Health Services.

Road officer or road contractor not liable to fine except in certain cases.

100. Save as in sections 99 and 224 provided, nothing contained in this Part shall render any officer of a Town Council in charge of any work on any thoroughfare, or any contractor under the Council, liable to any prosecution or fine under this Part for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract.

DRAINAGE

103. The Town Council of each town may, from time to time, cause to be made, altered, or extended such public main or other drains, sewers, and watercourses as may appear to it to be necessary for the effectual draining of any area within the town, and, if necessary, may carry them through, across, or under any street, or any place laid out as or intended for a street, and (after reasonable notice in writing in that behalf) into, through, or under any enclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done.

Town Council to make public drains.

Police officers and grama seva niladharis to enforce provisions of this Part-

101. It shall be the duty of all officers of the police force and of all grama seva niladharis generally, to aid and assist in the prevention of all offences against this Part within the areas or divisions for which they are respectively appointed.

PART IV

POWERS AND DUTIES AS TO PUBLIC HEALTH

PUBLIC HEALTH

Town Council to be general public health authority.

102. (1) Subject to the powers and responsibilities by law committed to any other authority, the Town Council of each town shall be the general administrative authority for the purpose of promoting and securing the public health within the town, and shall for that purpose be entitled to exercise all such powers as are vested in it by this Ordinance, the Nuisances Ordinance, the Housing and Town Improvement Ordinance, and any other written law for the time being in force in that behalf.

104. (I) The Town Council of each town shall maintain, and from time to time repair, and as it shall see fit, enlarge, alter, arch over. or otherwise improve all or any of the public drains, culverts, gutters, and watercourses in the town and may discontinue, close up, or destroy such of them as it may deem useless or unnecessary, but so that no nuisance is created by such act.

Duly of Council to repair, alter, and discontinue drains.

(2) Where by reason of the discontinuance, closing up, or destruction or alteration of any drain, culvert, gutter or watercourse/any person is deprived of the lawful use thereof, the Council shall with due diligence provide an effective substitute therefor.

(2) The Town Council of a town shall, in the exercise, discharge and performance of the powers, functions and duties vested in, assigned to or imposed on the Council by or under this Ordinance in matters relating to public health, act in consultation with the medical officer of health of the area in which the town is situated. It shall be the duty of the medical officer of health to advise the Council in all such matters and to supervise and direct the carrying out in the town of measures relating to public health, and for the purposes aforesaid, he shall be

105. Whoever within any town. without the written consent of the Town Council first obtained, makes or causes to be made any drain leading into any of the public sewers or drains, shall be guilty of an offence punishable with a fine not exceeding fifty rupees, and the Council may cause the drain so made to be demolished, altered, remade, or otherwise dealt with as it may think fit; and all the expenses incurred therein by the Council shall be paid by the person convicted of the offence, and shall be recoverable as hereinafter provided.

Penalty for making unauthorized drains into public drains.

Building over drains, &c., not to be erected without consent of Town Council.

106. No new building shall be erected over any public drain, sewer, culvert, gutter, or watercourse in any town without the written consent of the Town Council of the town; and where any building is so erected, the Council may cause it to be pulled down, or otherwise dealt with as it may think fit; and the expenses incurred therein by the Council shall be paid by the person convicted of the offence, and shall be recoverable as hereinafter provided.

General control of drains.

107. (1) Every private drain in any town shall be under the survey and control of the Town Council of that town, and shall be constructed, altered, repaired, or kept in proper order as the Council may require, at the cost and charges of the owners of the land or building to which such drain belongs or for the use of which it is constructed.

(2) If the owner of any land or building to which any such drain belongs neglects during eight days after the service of a written notice in that behalf by the Council, to alter, repair, or put the drain in good order in such manner as may be specified in the notice, the Council may cause such drain to be altered, repaired, or put in good order in the manner required, and the expenses incurred therein by the Council shall be paid by the owner, and shall be recoverable as hereinafter provided.

Obstruction of discharge of rain water and drainage.

108. Whenever the Town Council of a town has by resolution determined that any natural watercourse, channel, lake, swamp, or any part thereof which is situated within the town and into which rain water or drainage has theretofore discharged, shall remain open for the reception of such rain water or drainage, any person who, after receiving a written notice of the resolution from the Council, fills up or permits to remain filled up any such watercourse, channel, take or swamp in such a manner as to obstruct or interfere with the free flow of such rain water or drainage, shall be guilty of an offence punishable with a fine not exceeding fifty rupees:

Provided that—

- (a) such natural watercourse, channel, lake, or swamp may be filled up if

the owner thereof first provides such other channel or drains, as may, in the opinion of the Council, be sufficient and suitable for the reception and conveyance of such rain water or drainage ; and

- (b) the Council may contribute in part or in whole to the cost of providing such other channel or drain.

LATRINES

109. It shall be the duty of the Town Council of each town—

Duty of Council as to latrine accommodation.

- (a) to take effective measures to secure that adequate and proper latrine accommodation is provided for all houses, buildings, and lands within the town;
- (b) to provide such public latrine accommodation as is necessary at all places of public resort within the town; and
- (c) to ensure that all latrine accommodation, both public and private, within the town, is maintained in proper order and condition.

110. (1) Where the Town Council is of opinion that any latrine or latrines or additional latrine or latrines should be provided for any house or building or land, the owner of such house or building or land shall within two months after service of a written notice in that behalf by the Council, cause such latrine or latrines to be constructed in accordance with such requirements as may be set out in the notice.

Council may order or cause additional latrines to be constructed.

(2) Where any notice served under subsection (1) is not complied with to the satisfaction of the Chairman within the period specified in that subsection, the Council shall be at liberty to cause such latrine or latrines to be constructed, and the expenses incurred in such construction shall be payable by the person making default in complying with the notice, and shall be recoverable as hereinafter provided.

Council may cause persons employing men to provide and maintain latrine or latrines. &c.

111. (1) It shall be lawful for a Town Council by written notice to direct any person employing workmen or labourers in the town to provide and maintain such latrine or latrines as may to it seem fit, and to cause the latrine or latrines so provided to be kept in proper order and to be daily cleaned.

(2) Where any notice served under subsection (I) is not complied with, the Council may construct the necessary latrine or latrines or cause the latrine or latrines to be kept in good order and daily cleaned, and the expenses incurred therein by the Council shall be paid by the person making default in complying with the notice, and shall be recoverable as hereinafter provided.

Neglecting to enclose private latrine.

112. (1) The owner or occupier of any house or building or land on which a latrine is situated shall have such latrine shut out by a sufficient roof and a wall or fence from the view of persons residing in the neighbourhood or passing by, and it shall not be lawful for any such owner or occupier to keep any open latrine or a latrine with a door or trapdoor opening on to any street.

(2) The owner or occupier of any house or building or land who fails to comply with, or shall commit any breach of, any of the provisions of subsection (I) shall be guilty of an offence punishable with a fine of five rupees for each day during which such breach is continued :

Provided that the Town Council of the town may in its discretion permit the continuance for such time as it may think fit of any open latrine or any latrine with a door or trapdoor opening on to any street in any case where such latrine already exists and does not create a nuisance.

General control of latrines.

113. (I) All latrines and cesspits within any town shall be under the survey and the control of the Town Council of the town and shall be altered, repaired, or kept in proper order as the Council may require, at the cost and charges of the respective owners of the houses- buildings, or lands to which the latrines belong, or for the use of which they are constructed or maintained.

(2) If the owner or occupier of any house, building, or land to which any latrine or cesspit belongs neglects, during one month after service of notice in writing for that purpose by the Town Council, or within such other period as may be prescribed by the notice, to alter, repair, and put the latrine or cesspit in good order in the manner required by the Council, the Council may cause such latrine or cesspit to be altered, repaired, or put in good order in the manner required; and the expenses incurred by the Council in respect thereof shall be paid by the owner, and shall be recoverable as hereinafter provided.

***114.** (I) If any person within any town—

Penalty for persons making or altering latrines, &c., contrary to the directions or by-laws of Town Council.

- (a) constructs any latrine or cesspit contrary to the directions of the Town Council of the town or contrary to the provisions of this Ordinance or any by-law made thereunder; or
- (b) continues the use of any latrine or cesspit which has been ordered by the Council to be removed or closed ; or
- (c) neglects to construct, provide, or maintain any latrine ordered to be constructed, provided, or maintained under sections 110 and III,

such person shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(2) In any case falling within paragraph (a) or paragraph (b) of subsection (I), the Council shall cause such alteration to be made in the latrine or cesspit as it may think fit; and the expenses thereof shall be paid by the person by whom such latrine or cesspit was improperly constructed or made, and shall be recoverable from him as hereinafter provided.

115. (I) The Town Council of a town or any officer authorized by the Council for that purpose may, subject to the other provisions of this Ordinance, inspect any

Inspection of latrines, &c.

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

latrine or cesspit within the town, and may for that purpose at any time enter upon any house, building, or land, with such assistants and workmen as are necessary, and cause the ground to be opened, where such Council or officer may think fit, doing as little damage as may be.

(2) If upon any inspection under subsection (1) it appears that any latrine or cesspit is not in good order and condition, or that it has been constructed after the date of the constitution of the Council in any manner contravening the provisions of this Ordinance or the by-laws made thereunder or contrary to the directions of the Council, the expenses of such inspection shall be paid by the person to whom such latrine or cesspit may belong, and shall be recoverable as hereinafter provided.

(3) If any latrine or cesspit is found to be in proper order and condition, and not to have been constructed in contravention of the provisions of this Ordinance or of the by-laws made thereunder or the directions of the Council, the Council or the authorized officer of the Council shall cause the ground to be closed and made good as soon as may be, and the expenses incurred thereby shall in that case be defrayed by the Council.

116. (1) The Town Council of a town or any officer authorized by the Council for that purpose may by written notice require the owner or occupier of any house or building or land within the town, on which is situated a latrine or cesspit which, in the opinion of the Council or the officer, is structurally defective or unsuitable for the purpose to which it is put, or is liable to give rise to a nuisance, to repair, alter, reconstruct, or remove the latrine or cesspit, or to substitute an earth-closet therefor.

(2) If any owner or occupier neglects for a period of one month after service of notice in that behalf under subsection (1), or within such other period as may be specified in the notice, to repair, alter, reconstruct, or remove the latrine or cesspit, to which the notice relates, or to substitute an earth-closet therefor, he shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(3) The Town Council or the authorized officer may cause the latrine or cesspit referred to in subsection (2) to be repaired,

altered, reconstructed, or to be removed and an earth-closet to be substituted therefor, and the expenses incurred by the Council or the officer in respect thereof shall be paid by the owner, and shall be recoverable as hereinafter provided.

CONSERVANCY AND SCAVENGING

117. It shall be the duty of the Town Council of each town, so far as is reasonably practicable, to take all necessary measures in every part of the town—

Duty of Council as to conservancy and scavenging.

- (a) for properly sweeping and cleansing the streets, including the footways, and for collecting and removing all street refuse;
- (b) for securing the due removal at proper periods of all house refuse, and the due cleansing and emptying at proper periods of all latrines and cesspits; and
- (c) for the proper disposal of all street refuse, house refuse, and night-soil.

118. All street refuse, house refuse, night-soil, or other similar matter collected by any Town Council under the provisions of this Part shall be the property of the Council, and the Council shall have full power to sell or dispose of all such matter.

All refuse collected to be the property of Council.

119. Every Town Council shall, from time to time, provide places convenient for the proper disposal of all street refuse, house refuse, night-soil, and similar matter removed in accordance with the provisions of this Part, and for keeping all vehicles, animals, implements, and other things required for that purpose or for any of the other purposes of this Ordinance, and shall take all such measures and precautions as may be necessary to ensure that no such refuse, night-soil, or similar matter removed in accordance with the provisions of this Part is disposed of in such a way as to cause a nuisance.

Places for disposal of refuse and keeping equipment.

INSANITARY BUILDINGS

120. It shall be the duty of the Town Council of each town to cause to be made, from time to time, an inspection of every part of the town with a view to securing that the houses or buildings in the town are kept in such sanitary condition as is required by

Duty of Council as to insanitary buildings.

Power of town Council to direct removal of latrine or closure cesspit.

the provisions of this Ordinance or any other enactment, and to undertake all necessary measures to enforce such provisions within the town.

Power of Council as to existing buildings.

121. (1) Whenever the Town Council of any town is satisfied that any buildings or blocks of buildings situated within the town, whether existing at the date of the constitution of the Council or subsequently erected, are, by reason of the occurrence of an epidemic, or of the manner in which such buildings are crowded together, or of the want of drainage or the impracticability of scavenging, attended with risk to the health of the inhabitants thereof or of the neighbourhood, the Council shall serve a notice on the owners or occupiers thereof, or at its option, on the owner of the land on which such buildings are constructed, within such reasonable time as may be fixed by the Council for that purpose, to execute such operations, including alteration of such buildings, as the Council may deem necessary for the avoidance of such risk.

(2) In any case where an owner or occupier served with a notice under subsection (1) refuses or neglects to execute such operations within the time fixed by the Council, any officer authorized by the Council in that behalf may cause the buildings to be taken down, or such operations to be performed in respect thereof, as the Council may deem necessary to prevent such risk.

(3) Where any buildings are taken down under subsection (2), the Council or the authorized officer shall cause the materials of each building to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the building, or if the owner be unknown or the title disputed, shall be held in deposit by the Council, until the person entitled thereto obtains the order of a competent court for the payment of such proceeds.

Overcrowding of houses

122. Whenever it appears to the Town Council of any town that any house within the town is so overcrowded as to be dangerous or prejudicial to the health of the occupiers thereof, or of the neighbourhood, and the occupiers consist of more than one family, the Council shall cause proceedings to be taken before the Magistrate's Court having jurisdiction to abate such

overcrowding, and the court shall thereupon make such order as it may think fit; and each of the persons permitting such overcrowding shall be guilty of an offence punishable with a fine not exceeding ten rupees for each day after the date of such order during which such overcrowding shall continue.

123. It shall be lawful for the Town Council of any town by any of its officers at any time between sunrise and sunset to enter into and inspect any house or building within the town, and by an order in writing to direct all or any part thereof to be forthwith internally and externally lime-washed or otherwise cleaned; and if the owner or occupier of such house or building neglects to comply with such direction within seven days from the time when the order shall have been served upon him, the Council may cause the work to be done, and the expenses incurred shall be paid by the owner, and shall be recoverable as hereinafter provided.

Power of Council to inspect buildings.

124. (1) In any town for which a Town Council is constituted it shall not be lawful for any person to erect or construct any house, hut, shed, or other building, (whether to be used as a dwelling or as a stable or for any other purpose) having its external roof or walls made of grass, leaves, thatch, mud, mats, or other such inflammable material, without first obtaining the permission of the Chairman of the Council.

Houses or huts not to be built or roofed with inflammable material.

(2) The permission given by the Chairman under subsection (1) shall in every case be subject to a specified time-limit and such conditions as he may impose in writing for the purpose of ensuring that such inflammable material as may be used for the roof or walls of the building to which the permission relates will be replaced at the earliest convenient opportunity by such non-inflammable or durable material as may be approved by the Chairman.

(3) If any house, hut, shed, or other building of the description referred to in subsection (1) is built without the permission required by that subsection, the Chairman shall give notice to the owner

thereof, or of the ground upon which such building is erected or constructed, or is being erected or constructed, by affixing a notice to some conspicuous part of such house, hut, shed, or other building, to take down and remove the building forthwith or within such time as the Chairman may specify in the notice.

(4) If any house, hut, shed, or other building is not taken down and removed forthwith or within the time specified in any notice under subsection (3), the Chairman shall cause the building to be taken down and removed, and the expenses incurred by the Chairman in doing so shall be paid by the owner of the building or of the ground upon which it is built, and shall be recoverable as hereinafter provided.

NUISANCES

Inspection of nuisances-

125. It shall be the duty of the Town Council of each town to cause to be made, from time to time, an inspection of the town with a view to ascertaining what nuisances exist calling for abatement under the powers conferred by this Ordinance or any other enactment, and to the enforcement of the provisions of this Ordinance or such other enactment in order to abate such nuisances.

Power to fill up unwholesome tanks on private premises.

126. (1) Where in any town for which a Town Council is constituted, any private tank or low marshy ground or any waste or stagnant water, situated on any private land, appears to the Council to be injurious to health or to be offensive to the neighbourhood, the Council shall, by notice in writing require the owner of that land to cleanse or fill up such tank or marshy ground, or to drain off or remove such waste or stagnant water.

(2) If any owner on whom a notice under subsection (1) is served refuses or neglects to comply with the notice within such period as may be specified therein, the Council or its officers and workmen may enter into the land and do all necessary acts for all or any of the purposes referred to in subsection (1), and the expenses incurred thereby shall be paid by the owner of the land, and shall be recoverable as hereinafter provided.

(3) Where the land referred to in subsection (2) is owned by more than one person, the expenses referred to in that subsection shall be apportioned among, and recoverable from, the several owners in such proportions as may be determined by the Council.

127. (1) No place in any town, other than a place provided by the Town Council of that town, shall be used as a slaughterhouse, unless a licence for the use thereof as a slaughterhouse has been obtained from the Chairman of the Council, who is hereby empowered at his discretion, from time to time, to grant such licence, and such licence to suspend or revoke as to him may seem necessary.

Licensing of slaughter-houses.

(2) Every person who uses as a slaughterhouse any place (other than a place provided by the Town Council) which is not licensed under subsection (1), or in respect of which any licence given has been suspended or revoked, shall be guilty of an offence punishable with a fine not exceeding two hundred rupees and with a further fine not exceeding fifty rupees for every day during which such offence is continued after notice has been served upon him by the Chairman requiring him to discontinue the use of such slaughterhouse.

PART V

PUBLIC UTILITY SERVICES

128. The Town Council of a town may, for the purpose of any place or area within the town, either independently or in conjunction with any other local authority, and either directly (with or without the assistance of Government) or through any promoter or body of promoters, establish and maintain for the benefit of the persons inhabiting or resorting to such place or area any of the following public utility services:—

Power of Town Council to establish and maintain public utility services.

- (a) water supply;
- (b) the lighting of streets, public places, and public buildings;
- (c) the supply of electric light or power;

- (d) markets;
- (e) public baths and bathing-places;
- (f) the manufacture and supply at cost price of squatting plates for latrines;
- (g) the provision of housing accommodation for the poorer classes;
- (h) any other form of public service which the Council is authorized to establish, maintain, or provide under any other provision of this Ordinance, or under any other written law;
- (i) any other form of public service not specified above, subject to such prohibition or restriction of the establishment and maintenance of that service as may be imposed by any other law.

- (d) charge such fees as it may deem reasonable to persons deriving benefit from such service ; or
- (e) where any such public service is established or maintained through any promoter or body of promoters in pursuance of any agreement made with the Council or under any licence issued by the Council, authorize such promoter or promoters to charge such fees as may be approved by the Council to persons deriving benefit from such service.
- (2) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the special rate imposed by the Council under subsection (1) (b) in any year and any costs incurred for the purpose of recovering that rate where—

- (a) he is of the opinion that such rate has been imposed without the provision of adequate services ; or
- (b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case-

(3) Where the Minister has under subsection (2) authorized the waiver of the whole or part of any special rate imposed and any costs incurred for the purpose of recovering that rate, the Council shall—

129. (I) For the purpose of the establishment or maintenance of any public utility service which a Town Council is authorized to establish or maintain under this Part, the Council may—

- (a) provide for any expenses involved out of the revenue of the Council; or
- (b) subject to the sanction of the Minister, impose and levy upon the area benefited by such service, in addition to any rate imposed and levied under section 159, a special rate not exceeding six *per centum* of the annual value of all immovable property situated within such area, subject to such limits and exemptions as may be prescribed by by-laws; or
- (c) contract with the owners or occupiers of premises benefited by such service for the supply of the service, and charge and enforce such rates in respect of such service as may be prescribed by by-laws under this Ordinance ; or

- (a) where such special rate has been paid, set off such amount of the rate and any costs incurred, against future rates due on the property in respect of which such rate has been paid; or
- (b) where such special rate has not been paid, waive the amount of such rate and any costs incurred.

No person shall have a right to a refund of such amount.

130. The Town Council of any town may, subject to the consent of the local authority of any area adjacent to the town, contract with the owners or occupiers of any premises situated in any such adjacent area

Manner of defraying expenses of public utility services.

[§ 6, 57 of 1979.]

[§ 6, 57 of 1979.]

Supply to premises in adjacent area

for the supply of any public utility service to such premises, and may charge and enforce rates in respect of such supply.

General power; of Council.

131. For the purposes of the establishment or maintenance of any public utility service which it is authorized to establish or maintain under this Ordinance, any Town Council may enter into any contract, and may, subject to the provisions of this Ordinance, purchase, take upon lease, hire, construct, or maintain all premises, machinery, and apparatus required for such purposes, and do and execute all such works, matters, and things as may be necessary in that behalf.

WATER SUPPLY

Ratepayer entitled to free watersupply from public stand-pipes for domestic purposes.

132. Where the Town Council of a town establishes or maintains a public water supply for the benefit of the inhabitants of any area within the town, the owner or occupier of any premises in such area in respect of which the Council levies a special water-rate for the purposes of such water supply, shall be entitled to have free of further charge a supply of water from the public stand-pipes for the domestic purposes of himself and his household or of his tenants or other persons occupying the said premises.

Meaning of " domestic purposes ".

133. 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.

Contract for private service.

134. A Town Council may supply water for other than domestic purposes, or allow a private service of water to any premises for domestic purposes, in such quantities and upon such terms and conditions as may be agreed upon between the Council and the persons desirous of being so supplied, or as may be prescribed by by-laws in that behalf.

MARKETS

Duty of Council as to marketi.

135. It shall be the duty of the Town Council of each town—

- (a) to establish and maintain within the town all such public markets as are

required for the service of the inhabitants, and to secure the proper scavenging, washing, disinfecting, and conservancy of all such markets;

- (b) to regulate, supervise, and control all private markets within the town which are licensed under this Ordinance.

136. No new private market shall be established within any town for which a Town Council has been constituted, except under and in accordance with the conditions of a licence issued by the Chairman of the Council.

Licensing of new private, markets.

137. (1) After the expiration of a period of six months from the date of the constitution of a Town Council for any town, no private market in existence at that date within that town shall continue to be maintained except under and in accordance with the conditions of a licence issued by the Chairman of the Council.

Licensing of existing private markets.

(2) Every application for a licence for an existing private market shall—

- (a) be substantially in form A set out in the First Schedule, and be accompanied by the declaration, for which provision is made in that form, and by such plans and specifications as may be prescribed by the by-laws of the Council for the time being in force, or, in the absence of any such by-law, as may be required by the Chairman; and

- (b) be made under the hand of the owner of the private market within a period of three months from the date of the constitution of the Council.

(3) Every declaration required by subsection (1) shall be conclusive evidence, as against the owner by whom it is made, With respect to all particulars therein contained in all questions that may arise as to assessment of annual value, fees for licences, compensation, or acquisition.

Licence to be annual and subject to stamp duty.

138 (1) Every licence issued for a private market by a Town Council shall be substantially in the form B set out in the First Schedule and shall be subject to the provisions of this Ordinance, to the by-laws of the Council for the time being in force, and to such special conditions, not inconsistent with such by-laws, as the Chairman may deem it necessary to impose in the circumstances of each case.

(2) Every licence for a private market shall expire on the thirty-first day of December of the year for which it is granted.

(3) Every licence for a private market shall be renewable annually, and on the occasion of the issue and of every renewal of such licence, there shall be paid to the Council a licence duty of such amount as may be imposed under section 161.

New private markets to conform to prescribed standards.

139. No licence shall be granted for any new private market, unless such market conforms to the standards prescribed in the Second Schedule, subject to such modifications or additions as may be prescribed by by-laws under this Ordinance.

Cleansing and scavenging of markets.

140. No licence for a private market shall be issued until the Chairman is satisfied that the owner has made satisfactory provision for the scavenging, washing, disinfecting, and conservancy of the market premises.

New private markets to acquire no vested interests.

141. Every licence granted under this Ordinance for any new private market shall be upon the condition that should the Council at any time decide that it is in the public interest to establish a public market in place of such private market, the Chairman of the Council may refuse to renew the licence of such private market, and that the owner of such private market shall not be entitled to any compensation in respect of such refusal.

Power of Chairman to refuse new licence.

142. The Chairman of a Town Council may refuse to issue a licence for any new private market, or to issue or renew any licence in respect of any private market established within one year prior to the date of the constitution of the Council, if he is satisfied that the wants of the locality are

sufficiently provided for by the public and the private markets already in existence or in contemplation.

143. The Chairman of a Town Council may refuse to license or to renew the licence for any private market existing at the date of the constitution of the Council (not being a market established within one year prior to such date) without the payment of compensation in the following cases, that is to say:—

Refusal of licences to existing private markets.

(a) where such market does not conform to the standards prescribed in the Second Schedule, and its owner or occupier neglects or refuses, within such reasonable time as may be fixed by the Chairman, to carry out such alterations, additions, or improvements as are, in the opinion of the Chairman, necessary to bring such market into conformity with the aforesaid standards, subject to such modifications, if any, of those standards as in the circumstances of the case the Town Council may sanction;

(b) where the Town Council is satisfied that owing to the inherent defects of such market or for any other reason such market cannot be so improved as to bring it into conformity with the aforesaid standards or such modification of those standards as the Council may be prepared to sanction;

(c) where the Town Council is satisfied with regard to any private market that owing to its position or for any other reason such market is objectionable from the point of view of sanitation or of the safety or convenience of the public:

Provided that any person aggrieved by any decision of the Chairman or the Town Council under this section may appeal to the Minister; and upon such appeal the Minister may confirm the decision of the Chairman or Town Council, or may order the issue of a licence, subject to the market being brought into conformity with such modification of the aforesaid standards as

the Minister in the circumstances of the case may deem to be reasonable and consistent with the public interest, or may make such other order as the Minister may deem just.

Special provisions will regard to markets established over thirty years.

144. (1) In the case of any market which is of the description referred to in paragraph (b) or paragraph (c) of section 143 and which is proved to the satisfaction of the Town Council to have been carried on for a period of over thirty years prior to the date of the constitution of the Council, the Council may in its discretion, and shall if so directed by the Minister, proceed as follows;—

- (a) the Council may provide in any local public market already established or to be established under this Ordinance, satisfactory accommodation for the business hitherto carried on in such private market, and may thereupon direct the owner or occupier of such private market to close that market and transfer its business to the new accommodation so provided ; and
- (b) if the directions given by the Council under paragraph (a) are complied with, the Council may grant to such owner or occupier a lease of such accommodation for a period not exceeding fifty years, subject to the condition that such owner or occupier and his successors, executors, administrators, or assigns observe the by-taws of the Council for the time being in force and the conditions of the lease, and subject to the payment of the rent therein reserved.

(2) The rent payable under any lease referred to in subsection (1) shall be such reasonable sum as may be determined by the Council, and shall be revised every five years. For the first period of five years such rent shall not exceed ten *per centum* of the cost of providing such accommodation, and in the case of every subsequent period of five years, it shall not exceed ten *per centum* of the average net annual profits derived from the accommodation leased for the previous five years.

(3) If any dispute arises as to the amount of such annual profits, the question shall be determined by the Chairman, subject to an appeal to the Minister.

(4) Should the rent due under any lease referred to in subsection (1) not be paid in accordance with the terms of the lease, or should the lessee or the person for the time being in control of the accommodation leased persistently fail to comply with the conditions of the lease or with any by-laws made under this Ordinance, the Council may, after affording, by notice in writing, the person entitled to the lease an opportunity of being heard, cancel such lease:

Provided that any person aggrieved by any order of the Council under this subsection may appeal to the Minister, and the Minister upon such appeal shall have power to make such order as he shall deem just.

145. Where any Town Council is unable immediately to make suitable provision for the public requirements in a public market, such Council may, if it appears necessary for the public convenience, allow any existing private market to continue provisionally, although such private market does not conform to the standards prescribed in the Second Schedule or to any authorized modification thereof, and may issue a temporary licence to such private market without prejudice to its rights to proceed at some future date under the provisions of this Ordinance.

Power to license market provisionally.

146. (1) Where a Town Council is satisfied that it is in the public interest that any private market licensed, or qualified to be licensed, under this Ordinance (not being a market to which section 144 applies) should be either—

Compensation for discontinuance of private market,

- (a) discontinued altogether as a market; or
- (b) taken over by the Council as a public market,

the Council may either direct the discontinuance of such market, or may take it over and maintain it as a public market,

subject in either case to the payment of compensation in accordance with the provisions of this section.

(2) Where any market referred to in subsection (1) is discontinued as a market, the compensation payable, unless otherwise settled by agreement, shall be the difference between the value of the premises if used as a market under this Ordinance and the value of the same premises if used, not as a market, but for any other local purposes to which similar premises in the same locality are or might be put to the best advantage, together with an allowance in respect of the cost of adapting the existing market buildings for any such purpose.

(3) Where any market referred to in subsection (1) is taken over by the Town Council to be maintained as a public market, the compensation payable shall be the value of the premises when used as a market under this Ordinance.

(4) In estimating the value of market premises used as a market under this Ordinance, regard shall be had to the depreciation likely to occur in the value of such premises in the event of a public market or a new private market being established in the same neighbourhood.

147. Upon any place, in which any village market has been established under any enactment relating to Village Councils being declared to be a town under this Ordinance, such market shall vest in the Town Council of the town, and shall become subject to this Ordinance.

148 A Town Council may by arrangement with any Village Council transfer to the Village Council the management of any public market administered by the Council under this Ordinance.

149. Where a licence has been granted by a Town Council for a private market under this Ordinance, and the licensee at any time during the currency of such licence fails to conform to the standards and by-laws applicable to private markets under this Ordinance, after his attention has been

directed to such failure by means of a notice in writing served upon him by or under the authority of the Town Council and setting out a period within which such failure must be rectified, it shall be lawful for the Chairman to suspend the licence of such market until the licensee shall have made good the default.

150. Any person who after the expiration of a period of six months from the date of the constitution of a Town Council in any town uses as a private market any premises in that town for which a licence has not been granted under this Ordinance, or the licence for which has been suspended, shall be guilty of an offence, punishable with a fine not exceeding one hundred rupees, and with a further fine of fifty rupees for every day during which such offence shall have been continued after written notice of the suspension of the licence is served upon such person.

151. (1) In any place within a town in which any public market is established under the control of the Town Council of the town, the Council may by by-law made under this Ordinance assign an area to such market (hereinafter referred to as "the market area"), and may prohibit the sale, otherwise than in accordance with licences issued by the Chairman, of meat, poultry, fish, fruit, or vegetables within such area.

(2) In any case referred to in subsection (1) the Chairman may issue a licence for the sale of meat, poultry, fish, fruit, or vegetables, within the market area, at authorized premises other than such market, and may fix and levy such fees in respect of that licence as may be prescribed by by-law.

(3) In any case in which the Town Council is satisfied that sufficient facilities are afforded for the public requirements of the market area by the public market, or by such market together with other premises earlier authorized under subsection (2), the Council may by by-law made under this Ordinance, prohibit the sale of meat, poultry, fish, fruit, or vegetables within the market area, except at such public market, or, if the Council so determines, except at such market and such other authorized premises.

Penalty for keeping unauthorized market.

Market areas.

Vesting of village markets in Town Councils.

Transfer of markets.

Power to suspend licence of private markets.

(4) In any case referred to in subsection (3), the Council may by by-law direct that no licence, or no further licence (as the case may be), shall be issued for the sale of meat, poultry, fish, fruit, or vegetables within the market area, and if the Council determines that no such licence shall be issued, it may (on providing adequate accommodation for the purpose in the public market) require that any person carrying on the sale of any of the said articles within the market area at premises other than the public market shall transfer such sale to the public market.

(5) Nothing in this section shall be deemed to authorize a Town Council by by-law or otherwise to restrict the sale of poultry, fruit, or vegetables by itinerant vendors who do not sell at fixed places, or do not for the purposes of such sale establish themselves on the public roads or other public places.

PART VI

BY-LAWS

Power of Council to make by-laws.

152. (1) Every Town Council shall have power to make, from time to time, such by-laws, not inconsistent with the provisions of this Ordinance, as may be authorized or required by this Ordinance, or may appear to the Council to be necessary for the purposes of the exercise of its powers and the discharge of its duties under this Ordinance, and to amend, vary or rescind any by-law so made.

(2) A by-law made by any Town Council may provide the penalty of a fine for any contravention thereof, such fine not exceeding fifty rupees for any one act or omission constituting such contravention, and in the case of a continuing contravention, an additional fine not exceeding twenty-five rupees for every day during which the contravention is continued after a conviction thereof by a court of competent jurisdiction or after service of a written notice from the Chairman or other authorized officer directing attention to such contravention.

Approval and publication of by-laws.

153. (1) No by-law, and no amendment, variation or rescission of any by-law under this Ordinance shall have effect until it has been approved by the Minister, and notification of such approval is published in the Gazette.

(2) Every by-law made under this Ordinance shall be published in the Gazette with the notification required by subsection (1) and upon such publication, every such by-law purporting so to be made shall, subject to the provisions of section 155, be as valid and effectual as if it had been enacted in this Ordinance, and every contravention thereof shall be an offence under this Ordinance.

Supply of copies of by-laws.

154. Copies of all by-laws made and published under this Ordinance in the Sinhala and Tamil languages shall be kept at the office of the Town Council of the town to which they relate and at the office of the Commissioner, and shall be open for inspection and be available for sale to the public,

By-laws to be subject to disallowance or amendment.

155. Every by-law made under this Ordinance shall, as soon as conveniently may be after the publication thereof under section 153, be brought before Parliament by a motion that such by-law be not disallowed, and may, by resolution of Parliament, be rescinded or amended. Notification of the rescission or amendment of a by-law by Parliament shall be published forthwith in the Gazette; and such rescission or amendment shall take effect from the date of such publication but without prejudice to anything that may have been done or any proceedings that may have been instituted under that by-law prior to that date.

Subjects of by-laws.

156. The power of any Town Council to make by-laws under this Part shall, without prejudice to the generality of the power thereby conferred, include power to make by-laws for or with respect to all or any of the following purposes, namely :—

(1) Procedure, including—

(a) the regulation of the meetings of the Council, and of his committees;

- (b) the form in which estimates, budgets, statements, and returns incidental to the business of the Council shall be drawn up;
- (c) the form in which the accounts of the Council shall be kept.
- (2) Officers, including—
 - (a) the creation of offices, the appointment of officers and servants, the payment of salaries, allowances or other remuneration, the payment of contributions to any scheme established for the purpose of granting relief or assistance to officers or servants in cases of illness, distress or indebtedness, the provision of pensions and gratuities, and the granting of leave of absence to such officers and servants, and the provision of pensions and gratuities to the widows, children, next of kin or dependants of deceased officers or servants;
 - (b) the due performance of their several duties by all officers and servants.
- (3) Taxation, including the recovery of any tax, payable under this Ordinance, for which no other express provision is made, and the rendering of all returns and information that may be required for the purposes of any such tax.
- (4) Loans, including—
 - (a) the form and manner of execution of securities;
 - (b) the arrangements for liquidation;
 - (c) the mode and order of repayment of loans or discharge or redemption of securities;
- (d) the conditions of any loan and the appropriation of the sums borrowed.
- *(5) The imposition, levy and recovery of rates and charges, including—
 - (a) the assessment of buildings, lands, and tenements;
 - (b) the rendering of returns and information required for the purpose of such assessment;
 - (c) the hearing and determination of objections;
 - (d) the registration at the office of the Council of mortgages over immovable property situated within the administrative limits of the Council and of the addresses of mortgagees, and the imposition and recovery of fees for such registration;
 - (e) the posting of notices in writing to such registered mortgagees of the sale of immovable property seized for the recovery of rates, taxes, or charges.
- (6) Land and property, including—
 - (a) the provision, regulation, and management of open spaces, and places for public recreation;
 - (b) the care of waste or public land;
 - (c) the maintenance and management of immovable property vested in, or under the control of the Town

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

- Council, the regulation of the removal of sand, gravel, stones, cabook, or other matter from such property, and the charging of fees for any permits issued in that connexion;
- (d) the care, regulation, and provision of common pasture grounds, and the levy of fees for the use of the same ;
 - (e) the putting up and preservation of boundaries and of fences of lands, whether private or public;
 - (f) the authorization of entry upon private lands for the purpose of the prevention of damage to, or the repairing or remedying of defects in, any wires, pipes, fixtures or apparatus or the supports thereof maintained for the purpose of any public service.
- (7) Thoroughfares, including—
- (a) the alignment, level, width, and construction of new streets;
 - (b) the cleaning, watering, and lighting of streets;
 - (c) the use of, and the regulation of traffic in, streets and thoroughfares, including the limitation of the weight and speed of vehicles, and the prevention or restriction of the use of vehicles upon any bridge, road, or street, or in any place where such use may be attended with danger to the public, or may be likely to damage such bridge, road, or street;
 - (d) the regulation of processions and assemblages and of the performance of music in thoroughfares;
 - (e) the prevention, abatement, supervision, and regulation of obstructions, encroachments, projections, and other interferences with thoroughfares;
 - (f) the erection of hoardings and other temporary structures, and the charging of fees for any permits issued in that connexion;
 - (g) the protection of the public against dangers resulting from building and other operations in or about thoroughfares.
- (8) Buildings, building operations, and works, including—
- (a) the regulation of the material of such buildings with a view to securing stability, preventing fires and safeguarding health;
 - (b) the space to be left about any building or block of buildings to secure free circulation of air and to facilitate scavenging;
 - (c) the dimensions of doors and windows, the level of the floor, the height of the roof, general ventilation, and drainage;
 - (d) the number and nature of latrines;
 - (e) the foundation and stability of structure;
 - (f) the line of building frontage.
- (9) Public health and amenities, including—
- (a) drainage;
 - (b) conservancy and scavenging, and the charging of fees for the same;

- (c) the inspection, regulation, maintenance and cleansing of all drains, privies, cesspits, ash-pits, and sanitary conveniences and appliances;
- (d) the regulation and management of public sanitary conveniences;
- (e) the regulation, supervision, inspection, and control of lodging-houses and tenement buildings;
- (f) the abatement of nuisances ;
- (g) the seizure, forfeiture, removal and destruction of unwholesome articles of food and drink, and the prevention of the sale or exposure for sale thereof;
- (h) the regulation, supervision, inspection, and control of hotels, bakeries, eating-houses, restaurants, and tea and coffee boutiques;
- (i) the regulation, supervision, inspection and control of hairdressing saloons and barbers' shops;
- (j) the regulation, supervision, inspection, and control of dairies, and the sale of milk;
- (k) the definition of the prescribed standard of milk that may be sold, and the prevention of the sale of milk below the prescribed standard;
- (l) in the case of any sample of milk, cream, butter or cheese, the determination of—
 - (i) the deficiency in any of the normal constituents of genuine milk (including condensed and curdled milk), cream, butter, or cheese, or
 - (ii) the proportion of water or other extraneous matter discovered in any such sample, which shall, for the purposes of any enactment, or by-law for the time being in force, raise a presumption until the contrary is proved that the milk, cream, butter, or cheese from which such sample was taken is not genuine or pure or is injurious to health;
- (m) the regulation, supervision, inspection and control of the sale of articles of food or drink including the sale of such articles by itinerant vendors and at hotels, shops and places other than markets;
- (n) the regulation, supervision, inspection, and control of trades deemed to be offensive or dangerous by the Town Council;
- (o) the regulation of the dimensions and use of kraals in public lakes, rivers, lagoons, and estuaries for soaking coir husks, and the charging of fees for permits for the use of such kraals;
- (p) the regulation, supervision, inspection, and control of wells on private lands ;
- (q) the regulation, supervision, inspection, and control of breweries, ice factories and aerated water manufactories;
- (r) the compelling of owners and occupiers in urban areas to keep their lands free of undergrowth and rubbish, and their dwelling compounds in a clean and sanitary condition;

- (s) the prevention of malaria and the destruction of mosquitoes and disease-bearing insects;
 - (t) the draining, cleansing, covering, or filling up of 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 ;
 - (u) the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, and places of assembly or worship by the owners or occupiers or persons having the care or control thereof;
 - (v) the prevention or mitigation of epidemic, endemic, or contagious diseases, and the speedy interment of the dead during the prevalence of such diseases;
 - (w) washing and bathing, including the establishment, maintenance, and regulation of public bathing-places and places for washing animals and clothes;
 - (x) all such other purposes, not specially provided for by this Ordinance, as may be necessary for the preservation or promotion of the public health and the suppression of nuisances.
- (10) Animals, including—
- (a) the regulation, supervision, inspection, and control of slaughterhouses, and the levy and recovery of fees for the use thereof;
 - (b) the housing and penning of cattle, horses, sheep, goats, and pigs;
 - (c) stray cattle, sheep, goats, and pigs, and the fixing, levying and recovery of charges for the occupation of pounds, and the cost of the keep of the animals impounded;
 - (d) the control of epidemic diseases among animals, the maintenance and regulation of quarantine stations for animals, and the levying of fees for the occupation of such stations;
 - (e) the protection and preservation of game and wild birds ;
 - (f) the destruction of stray dogs ;
 - (g) the prevention of cruelty to animals (including the restriction of the exposure for sale of live animals in any manner likely to cause unnecessary pain or suffering);
 - (h) the regulation and supervision of cattle sheds, *galas*, and halting places, and the control of the location thereof.
- (11) Markets and fairs, public and private, including—
- (a) their establishment, maintenance, and improvement;
 - (b) their regulation, supervision, inspection, and control, including the regulation of the prices of articles sold therein ;
 - (c) their conservancy and scavenging, and prevention of nuisances in connexion with them;
 - (d) the control of traffic, and the preservation of order within them and in their immediate vicinity;

- (e) the provision, inspection, and control of latrines, bathing-places, slaughterhouses, water supply and lighting in markets;
 - (f) the allotment of stalls and stands;
 - (g) the inspection of food and the seizure of unwholesome articles of food;
 - (h) the prohibition of the introduction or sale of any article or articles of food in cases where there exists good reason for such prohibition;
 - (i) the prohibition, either absolutely or subject to special licences, of the sale of any specified article, and the charging of fees for such special licences;
 - (j) the provision of security against fires;
 - (k) the temporary closing of any market or fair;
 - (l) the due performance of their duties by market keepers and other employees;
 - (m) in the case of public markets, the fixing and recovery of fees or rents for the use of the market premises or any part thereof, and of the buildings and bathing-places connected therewith, and for the leasing of the right to collect any such fees or rents;
 - (n) in the case of public markets, the declaration of a market area, and the licensing, restriction, or prohibition of sales within such area in accordance with section 151 ;
 - (o) in the case of private markets or of fairs, the licensing of such markets or fairs, the conditions of the licence, and the fees payable in respect thereof;
 - (p) in the case of private markets or of fairs, the standards to be observed in respect of accommodation, drainage, roads, air spaces, equipment, and sanitary requirements;
 - (q) in the case of private markets or of fairs, the renovation, alteration, enlargement, and improvement of existing buildings, and the erection of all new buildings in accordance with approved plans and after notice to the Town Council.
- (12) Waterworks, including-
- (a) the prevention of waste, misuse, undue consumption, or contamination of the water supplied for public or private use;
 - (b) the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal, and repair of the pipes, valves, cocks, cisterns, soil pans, water-closets, and other apparatus and receptacles to be used respectively for carrying, delivering, regulating, and storing water ;
 - (c) the regulation of the public supply of water by stand-pipes, and the use of the same;
 - (d) the regulation of the supply of water by private services, and the materials and fittings to be used;
 - (e) the regulation of the supply of water by measurement, and the materials, meters, appliances, and fittings used for such a purpose or in connection therewith;

- (f) the regulation of the terms and conditions subject to which water will be supplied by private services or for other than domestic purposes, and the price to be paid for water so supplied;
 - (g) the recovery of charges due in respect of any water so supplied in the same manner as a fine; and
 - (A) every other purpose, relating to the supply or the control of the supply of water from the waterworks, for which by-laws may appear to be necessary.
- (13) Public services, including all matters necessary for their establishment, maintenance, working, and supply, and for the recovery of charges in connexion therewith.
 - (14) The measure or dimension of bread, and the regulation of its manufacture and quality.
 - (15) The regulation of weights and measures.
 - (16) The regulation and control of advertisements displayed or exhibited so as to be visible from any thoroughfare and the charging of fees in respect of advertisements so displayed or exhibited.
 - (17) All other purposes, whether of the same nature as those above enumerated or otherwise, for which by-laws may be necessary for the protection or promotion of the local public interests, conveniences, and amenities.
- (2) There shall be payable into the local fund—
 - (a) the fines and penalties enumerated in the Fourth Schedule;
 - (b) the amount of all stamp duties enumerated in the Fifth Schedule;
 - (c) subject to any special appropriation made by the Minister, all grants allocated to the Council by the Minister;
 - (d) all rates, taxes, duties, fees, and other charges levied under the authority of this Ordinance ;
 - (e) all sums realized by sales, leases, or other transactions of the Council;
 - (f) all revenue derived by the Council from any property vested in the Council, or by the administration of any public service;
 - (g) all sums derived from any source of revenue made over to any local authority to which the Council is the successor in pursuance or in supposed pursuance of any repealed enactment;
 - (h) all sums and all sources of revenue, from time to time, appropriated or made over to the Council by Parliament, whether by resolution or otherwise;
 - (i) all sums otherwise accruing to the Council in the course of the exercise of its powers and duties.
 - (3) All moneys received by a Town Council and payable into the local fund shall be deposited at the nearest kachcheri or placed to the credit of an account bearing the name of that fund at an approved bank.

PART VII

FINANCE

LOCAL FUND

157. (I) Every Town Council for its general financial purposes shall establish a local fund.

Local fund and its constituents.

In this subsection " approved bank " means a bank specified by the Minister by Order published in the Gazette as a bank in which the moneys of any Municipal Council, Urban Council or Town Council may be deposited.

(4) Such part of the local fund as may not be immediately required for the purposes of the Council may be invested on any of the securities specified in section 20 of the Trusts Ordinance.

Application of local fund.

158. (I) There shall be paid out of the local fund established by each Town Council—

[§ 23, 48 of 1971.]

(a) all expenses incurred by the Council or by the secretary or by any other officer of the Council in the exercise of its or his powers and the discharge of its or his functions and duties under this Ordinance or any other enactment or any by-law or rule made thereunder; and

(b) all sums payable by the Council in respect of any liability under the Workmen's Compensation Ordinance; and

(c) all sums payable by the Council as premium for the insurance of any property belonging to or vested in the Council, or for insurance against any liability that may be incurred by the Council under the Workmen's Compensation Ordinance; and

(d) all sums received by the Council, which the Council is authorized or required by any written law to refund to the persons by whom they were paid; and

[§ 3, 14 of 1958.]

(e) such expenses not exceeding in the aggregate one thousand rupees in any year as may be incurred by the Council, and such other expenses as may be incurred by the Council with the prior sanction in writing of the Minister, in connection with civic receptions or the celebration or observance of any events or occasions of public interest, or any religious, charitable, cultural, health, recreational or educational purposes;

[§ 3, 14 of 1958.]

(f) such contributions not exceeding in the aggregate one thousand rupees in any year as may be voted by the

Council, and such other contributions as may be voted by the Council with the prior sanction in writing of the Minister, towards the cost of public entertainments or recreations, or towards the support of any libraries, or any educational, scientific, charitable or benevolent institutions, or any religious, charitable, cultural, health or educational purposes; and

(ff) all allowances payable to the Chairman, Vice-Chairman and members in accordance with rules made under section 192. [§ 151, Law 24 of 1977.]

(g) all sums voted by the Council to meet the travelling expenses of members or officers of the Council attending any meeting or conference of members or officers of Town Councils for the consideration of matters relating to local administration.

(2) All cheques or orders for payment of moneys out of the local fund shall be signed and issued in such manner as may be prescribed by rules made under section 192.

158A. (I) A Town Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant out of the local fund established by that Council, to any person—

Ex gratia payment of pension, annuity, gratuity or retiring allowance. [§ 3, 7 of 1959.]

(a) who retires or has retired from service as an officer or servant of that Council, or

(b) who is or was transferred from such service to, and retires or has retired from, the service of the Government,

a pension, gratuity, or retiring allowance in respect of any period of his service as such officer or servant for which no pension, gratuity, or retiring allowance or no adequate pension, gratuity, or retiring allowance is payable under any by-laws or rules of that Council or under any pension scheme established or deemed to be established under the Local Government Service Law.

(2) Where no pension, annuity, or gratuity is payable to the widow, children, next of kin or dependants of any deceased officer or servant of a Town Council under any by-taws or rules of that Council or under any scheme or fund established or deemed to be established under the Local Government Service Law, that Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant to such widow, children, next of kin or dependants a pension, an annuity or a gratuity out of the local fund established by that Council.

(3) Nothing in subsection (1) or subsection (2) of this section shall be construed to confer on any person any right to any pension, annuity, gratuity or retiring allowance under either of those subsections.

Power to establish gratuity scheme. [§ 3, 7 of 1959.]

158B. (1) A Town Council may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Public Administration, make by-laws providing for the establishment of, and may establish in accordance with such by-laws, a scheme for the payment of gratuities to temporary officers and servants of that Council upon their discontinuance from the service of that Council.

(2) By-laws made under subsection (1) may be so made by a Town Council as to be applicable to temporary officers and servants of that Council who have been discontinued from the service of that Council before the coming into operation of the by-laws.

IMPOSITION OF RATES AND TAXES

Power to impose and levy rates.

***159.** (1) The Town Council of a town may, subject to such limitations, qualifications, and conditions as may be prescribed by the Council, and subject to the approval of the Minister, impose and levy a rate not exceeding nine *per centum* of the annual value of any immovable property, or any species of immovable property, situated within the town.

(IA) The Town Council of a town may, in pursuance of its powers under subsection (1), impose and levy different rates for different immovable properties or different species of immovable property according to the services provided by the Council for each such immovable property or species of immovable property. Such imposition of different rates shall be subject to all the limitations, qualifications and conditions referred to in that subsection, and also to the approval of the Minister. [§3,8 of 1967.]

(IB) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the rate imposed by the Council under this section in any past year and any costs incurred for the purpose of recovering that rate where— [§ 7, 57 of 1979.]

- (a) he is of the opinion that such rate has been imposed without the provision of adequate services; or
- (b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case.

(1 C) Where the Minister has under subsection (IB) authorized the waiver of the whole or part of any rate imposed, and any costs incurred for the purpose of recovering that rate, the Council shall— [§ 7,57 of 1979.]

- (a) where such rate has been paid, set off such amount of the rate and any costs incurred, against future rates due on the property in respect of which such rate has been paid ; or
- (b) where such rate has not been paid, waive the amount of such rate and any costs incurred.

No person shall have a right to a refund of such amount.

(2) Where the Council, in imposing any rate for any year, resolves to levy without alteration the same rate as was in force during the preceding year, the approval of the Minister shall not be required for the imposition and levy of such rate.

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

Exemption from rates.

***160.** There shall be exempt from any rate imposed under section 159—

- (a) all lands or buildings wholly or mainly used for religious, educational, or charitable purposes;
- (b) all buildings in charge of military sentries;
- (c) all burial and cremation grounds ;
- (d) any immovable property which the Council may specially exempt from such rate on the ground of the poverty of the owner.

Power of Council to impose taxes and licence duties.

161. (1) The Town Council of a town may, subject to such limitations, qualifications, and conditions as may be prescribed by the Council, impose and levy any of the following taxes and licence duties within the town :—

- (a) a tax on vehicles and animals;
- (b) a duty in respect of licences issued by the Council; and
- (c) any other form of tax approved by the Minister.

(2) Where the Council, in imposing any tax under this section for any year, resolves to levy without alteration the same tax as was in force during the preceding year, the approval of the Minister shall not be required for the imposition and levy of such tax.

Vehicles and animals tax.

162. (1) The tax on vehicles and animals which a Town Council is authorized to impose by section 161 shall be an annual tax in respect of all or any of the vehicles and animals specified in the Third Schedule, and ordinarily used or to be used within the town for which the Council is constituted, and shall not exceed the respective amounts specified in that Schedule.

(2) The tax on vehicles and animals shall not be leviable or payable in respect of—

- (a) any vehicle or animal which is the property of the State or of the Council; or

(b) the authorized number of horses belonging to military officers doing staff, regimental, or other public duty within the town ; or

(c) vehicles kept for sale by bona fide dealers in such vehicles and not used for any other purpose ; or

(d) vehicles subject to a licence duty under section 3 of the Vehicles Ordinance, or to a tax under any enactment for the time being in force relating to motor vehicles.

(3) The tax on vehicles and animals shall be payable annually in advance on such date as may be ordered by the Council or prescribed by by-laws-

(4) The tax on vehicles and animals shall be payable by each person in whose possession or custody or control any vehicle or animal liable to the tax may be found so soon as it has been for thirty days used or kept for use within the administrative limits of the town, but no person shall be liable under this section in respect of any vehicle or animal which has been in his possession for less than thirty days.

(5) No person by reason of the transfer of ownership shall be liable to pay tax on any vehicle or animal on which the tax has already been paid for the year in which the ownership was transferred.

(6) The Chairman may, in respect of any period not exceeding one year at any one time, accept from any livery stable keeper or other person keeping or using animals for hire such sum as may be determined by the Chairman, in composition of the tax payable in accordance with the Third Schedule on the vehicles or animals kept in such stable or by such person.

(7) Where any vehicle or animal liable to any tax under this Ordinance is used or to be used within the administrative limits of more than one town, such vehicle or animal shall only be liable to one such tax in respect of the town within which it is principally used or to be used, and if any

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

question arises as to the administrative limits within which any vehicle or animal liable to any such tax is principally used or to be used, the question shall be determined by the Commissioner.

(8) Where any vehicle or animal is ordinarily liable to both the tax imposed under section 161 of this Ordinance, and the tax imposed under section 245 of the Municipal Councils Ordinance, or section 162 of the Urban Councils Ordinance, such vehicle or animal shall be liable to only one such tax which shall be payable—

- (a) where the vehicle or animal is kept within the administrative limits of a Town Council or a Municipal Council or an Urban Council, to such Town Council or Municipal Council or Urban Council, as the case may be ; or
- (b) where the vehicle or animal is not kept within the administrative limits of a Town Council or a Municipal Council or an Urban Council, to the Town Council or Municipal Council or Urban Council within whose administrative limits it is principally used.

(9) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, the secretary of the Council shall report the failure to the Magistrate's Court,* and the court shall proceed to recover the amount due as if it were a fine imposed by the court and shall pay the amount so recovered into the local fund.

[§ 24,48 of 1971.

Licence duty.

163. (1) The licence duty which a Town Council is authorized to impose by section 161 shall be in respect of each licence granted by the Council authorizing the use of any premises or place for any special purpose in pursuance of this Ordinance or any by-law made thereunder.

(2) The amount of the licence duty shall be such as may, from time to time, be determined by the Council:

Provided that no such duty shall exceed the sum of two hundred and fifty rupees per annum.

164. Any tax imposed under section 161 other than the tax on vehicles and animals shall be of such amount, and subject to such conditions as may be prescribed by by-laws made under this Ordinance.

By-laws relating to taxes.

ASSESSMENT AND RECOVERY OF RATES AND TAXES

†**165.** The assessment of any immovable property for the purpose of any rate under this Ordinance shall, with the necessary modifications, be made in manner prescribed by section 235 of the Municipal Councils Ordinance, with respect to immovable property within Municipal limits, and all the provisions of the said section, together with those of sections 233, 242, 243 and 236 to 241, shall, with the necessary modifications, apply with respect to every such assessment made for the purposes of this Ordinance :

Assessment of rates and taxes.

Provided that, pending the making of any such assessment, any valuation of any immovable property made for the purposes of the assessment tax under the Police Ordinance, or any enactment passed in amendment thereof, shall be deemed to be the valuation of such property for the purpose of any rate on the annual value thereof under this Ordinance.

‡**166.** (1) For the purpose of the ascertainment of any information which, in the opinion of the Chairman of a Town Council, may be necessary for the due imposition or levy of any rate or tax within the town for which the Town Council is constituted, the Chairman may, by notice in writing, require all persons who are liable or may be supposed to be liable to such rate or tax, or who may be the owners or occupier;

Power of Chairman to require returns.

* Vide section 32 of the Judicature Act.

† Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof.

‡ Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof.

or supposed owners or occupiers of any property with respect to which any rate or tax is imposed or may be imposed under this Ordinance, or if the Chairman shall so think fit, every householder within the town, to render all such returns, and make all such declarations of such particulars and in such form as may be prescribed by by-laws under this Ordinance, or, pending the making of such by-laws, as may be directed by the Council.

(2) All persons on whom any notice under subsection (1) may be served shall fill up in writing, sign, date, and deliver or transmit to the office of the Council any form served with such notice, or furnish any information required thereby, within fourteen days, or such longer time as may be prescribed by by-laws or specified in such notice.

(3) Any person who refuses to accept or who refuses, neglects, or omits duly to fill up and deliver or transmit any form or to furnish any information referred to in subsection (2) within the time prescribed or specified in that behalf, or who negligently renders a return or furnishes any information which is in any material respect inaccurate to the advantage of such person, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees.

Power of Chairman to summon persons before him.

***167.** (1) The Chairman of a Town Council may, by notice in writing, summon before him, or before any officer appointed by him in that behalf, any person whom he has reason to believe to be liable to the payment of any rate or tax, or who may be the owner or supposed owner of any property with respect to which any rate or tax is imposed or may be imposed under this Ordinance, or any other person whom he has reason to believe to be able to give any information with respect to any such property, and the Chairman or the officers so appointed may thereupon examine any such person on oath with reference to the said liability, and it shall be the duty of every person so examined to answer truly all questions addressed to him.

(2) Any person who, being summoned under this section, fails without lawful excuse to appear or submit to examination in obedience to the summons, shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(3) Any statement or declaration made by any person under this section or section 166 with reference to the value of any property in which such person is interested, or as to the value of the interest of such person therein, shall be conclusive evidence in any proceeding or matter in which the value of such property or such interest is in question, as against the person making the statement or declaration, that at the date at, or with reference to, which the statement or declaration was made, the said property or the interest of such person in the said property was of the value attributed thereto in such statement or declaration.

***168.** (1) The Chairman of a Town Council, or any officer authorized by him in that behalf, may, for the purpose of ascertaining or verifying any information as to the liability of any person to any rate or tax, at any time between sunrise and sunset enter upon and inspect any premises liable or supposed to be liable to the said rate or tax, or any premises on which any vehicle, animal, or other thing in respect of which any tax is payable is situate, or may be supposed to be situate.

Chairman's powers of inspection.

(2) Any person who, without lawful excuse, obstructs the Chairman or officer appointed for the purpose while acting in pursuance of this section shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

***169.** (1) All rates and taxes imposed and levied by a Town Council under this Ordinance, all rents due in respect of any premises let by a Council, and all fees leviable under any by-law made by a Council, shall, where no other method of recovery is specifically provided by or under this Ordinance or any other enactment, be recoverable in the same manner as rates, taxes and rents are recoverable under the Municipal Councils Ordinance; and all the

Recovery of rates and taxes

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

provisions of sections 252 to 266 of that Ordinance relating to the recovery or the waiver of rates, taxes and rents, and the termination of the tenancy of tenants of the Council shall, with the necessary modifications, apply accordingly.

*(2) Where the lessee or occupier of any immovable property belonging to the State and situated within the limits of any town makes default in the payment of any rates imposed in respect of such property under this Ordinance by the Town Council of that town, and a warrant is issued, in accordance with such of the provisions of law as are made applicable in such case by subsection (1), for the seizure and sale of the movable or immovable property of such lessee or occupier, the officer to whom the warrant is issued may, notwithstanding anything contained in any other written law to the contrary, execute the warrant in any area in which any movable or immovable property of such lessee or occupier may be found, whether such area is within or outside the limits of that town.

Recovery of payments due to the Town Council. [§ 28, 48 of 1971.]

169A. (1) Where under the provisions of this Ordinance, or any by-law, rule or regulation made under this Ordinance, any duty, fine, penalty, fee or other payment has become due to the Town Council, then, notwithstanding anything to the contrary in any such provision or any such by-law, rule or regulation, it shall be the duty of the secretary of the Council to take all steps necessary to recover such duty, fine, penalty, fee or other payment and credit it to the funds of the Town Council.

(2) Where any rate, tax, rent, fee, duty, toll, fine, penalty or any other payment whatsoever has become due to the Town Council under any written law, other than this Ordinance, or any by-law, rule or regulation made under this Ordinance, then, notwithstanding anything to the contrary in the aforesaid written law, it shall be the duty of the secretary of the Council to take all steps necessary to recover such rate, tax, rent, fee, duty, toll, fine, penalty or other payment and credit it to the funds of the Town Council.

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.— See '•ecllon 76 (hereof).

Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

170. A Town Council may by resolution waive the whole or any part of any sum of money (not being a sum for the waiver of which provision is made by section 169) due to the Council from any person if it appears to the Council that the amount to be waived is inconsiderable or is irrecoverable or that it should be written off on the ground of the poverty of the person liable therefor. Every such resolution relating to the waiver of an amount exceeding fifty rupees shall be subject to the approval of the Minister.

Waiver of sums due to the Council.

171. No assessment or valuation, and no charge or demand of rate or tax under the authority of this Ordinance, and no seizure and sale, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax. or any mistake in the amount of assessment or the mode of seizure and sale, or any other formal defect.

Assessment, &c.. not to be impeached for want of form.

LOANS

172. (1) It shall be lawful for a Town Council, subject to the approval of the Minister, to borrow from the Government of Sri Lanka, or any person or persons or body of persons, whether incorporated or not, such sum or sums of money as may be necessary for any of the purposes of the Council;

Power of Town Council to borrow on the security of rates and taxes.

Provided that the approval of the Minister shall not be necessary for borrowing any such sum if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed.

(2) Every loan raised by a Town Council shall be subject to such rate of interest and to such conditions for the repayment thereof as may, where that loan is raised with the approval of the Minister, be approved by the Minister, and, in any other case, be determined by the Council.

(3) For the purpose of securing the repayment of the sum or sums borrowed by a Town Council and the interest accruing thereon, the Council may mortgage and assign to the lender or lenders, by or on whose behalf such sum or sums or any part thereof may be lent, the proceeds of any rate or tax levied or imposed under this Ordinance or any portion thereof, or any property belonging to the Council or any other source of income accruing to the Council or any portion thereof.

arrangements for the liquidation of any loan, shall, subject to the provisions of the Local Loans and Development Ordinance, be such as may be prescribed by by-laws or regulations made under this Ordinance, and, in the absence of any such by-laws or regulations shall be in accordance with the provisions of the Municipal Councils Ordinance, and the said provisions, with the necessary modifications, shall in such circumstances apply to any loan made to any Town Council under this Ordinance.

Limitation of borrowing powers.

173. (1) The amount at any time outstanding in respect of all loans due from any Town Council (whether raised under the authority of this Ordinance or any other enactment) shall not exceed in the aggregate ten times the fair average annual income received by the Council from all rates, taxes, properties, and other sources of income for the preceding five years, or, in the case of a Town Council which has not been in existence for five years, ten times its income for one year as appraised by the Council, subject to the approval of the Minister:

ACCOUNTS, ESTIMATES, AND BUDGET

175. (1) Every Town Council shall, from time to time, order and direct a book or books, in such form as may be prescribed by the Commissioner, to be provided and kept at its office and true and regular accounts to be entered therein of all sums of money received by the Council and expended for or on account of the purposes of this Ordinance, and of the several articles, matters, and things for which sums of money shall have been disbursed and paid.

Books of accounts to be kept by Council.

Provided that in any case in which the liabilities of any Town Council in respect of its loans are wholly or mainly due to the Government of Sri Lanka, the Minister may, by Order published in the Gazette, authorize the limit prescribed by this section to be exceeded to such extent as may be stated in the Order.

(2) The book or books of accounts of a Town Council shall not for any reason or under any pretence whatsoever be taken from the office of the Council, except by process of a competent court.

(2) All securities given in respect of loans under this Part shall be free of stamp duty.

(3) The book or books of accounts of a Town Council shall at all reasonable times be open to the inspection of the members of the Council, and every householder resident within the town administered by the Council, and any member of the Council or any such householder may take copies of or extracts from such book or books free of all charges.

When Chairman may exercise powers of Council relating to raising of loans. [§ 152, Law 24 of 1977.]

173A. If the Town Council fails to sanction the raising of a loan for the purpose of fulfilling any duty imposed on the Council or carrying out any work which the Chairman considers to be necessary, the Chairman may with the approval of the Commissioner raise such loan and may exercise all the powers vested in the Council under the provisions of sections 172 and 173 as though such powers were conferred by those sections on the Chairman.

176. (1) Every Town Council shall cause to be prepared in writing, in the month of January in each year, or within such other period as the Council, with the sanction of the Commissioner, may direct, a true account of all the moneys received and paid by virtue of this Ordinance during the year ending on the thirty-first day of December next preceding or such other period of twelve months as the Council, with the sanction of the Commissioner, may

Preparation and publication of annual accounts.

Form of security, &c.

174. The form and manner of execution of any security given for the purpose of any loan under this Part, the mode and order of repayment of any sums borrowed, and the

direct, and a statement of the assets and liabilities existing at the said date, and a copy or duplicate of such account and statement verified on oath before any Justice of the Peace by the Chairman of the Council, or such other officer of the Council as it may appoint for the purpose, and certified by one of the members to be correct, shall be deposited with the Council, and shall be open to the inspection of any householder resident within the town administered by the Council or any party interested.

(2) An abstract of the account and statement referred to in subsection (1) shall be published in the Gazette for general information before the first day of March following, or before such other date as the Council, with the sanction of the Commissioner, may direct.

Budget.

177. (1) The Chairman of every Town Council shall, each year, on or before such date as may be fixed by by-laws of the Council or by rules made under section 192, prepare and submit to the Council a budget for the next succeeding year in such form as may be prescribed by the Commissioner, and containing—

- (a) the details of the proposed expenditure set out in items under appropriate heads;
- (b) an estimate of the available income of the Council from sources other than rates;
- (c) an estimate of the rate or rates necessary for the purpose of providing for the proposed expenditure.

(2) Whenever it is necessary to introduce any new item or items of expenditure during the course of any year, the Chairman shall prepare and submit to the Council a supplementary budget containing details of the proposed expenditure.

(3) A copy of every annual budget or supplementary budget of a Town Council shall be open to inspection at the Town Council office.

[§ 3, 13 of 1979.]

177A. If the Town Council modifies or rejects all or any of the items in any budget or supplementary budget or adds any item thereto and the Chairman does not agree with any such decision of the Council he shall re-submit the budget or supplementary budget to the Council for further consideration. Where a budget or supplementary budget is not passed by the Council within two weeks after it is re-submitted, such budget or supplementary budget shall notwithstanding that it has not been passed by the Council, be deemed to be the duly adopted budget or supplementary budget of the Council.

Chairman's powers with regard to budget. [§ 153, Law 24 of 1977.]

178. The Chairman may, in case of necessity during the course of any year, reduce or increase the expenditure under any head, or transfer the moneys appropriated under one head to any other head, in the budget or in any supplementary budget adopted for that year, but so, however, that the total amount of expenditure sanctioned by such budget or supplementary budget is not exceeded.

Variation of expenditure proposed in budget. [§ 154, Law 24 of 1977.]

179. (1) The Chairman of every Town Council shall, as soon as may be after the close of each financial year, prepare a detailed report of the administration of the Council during such financial year, with a statement showing the nature and amount of receipts and disbursements on account of the local fund during that year.

Annual administration report.

(2) The report and statement required by subsection (1) shall be in such form as may be prescribed by the Commissioner, and shall be submitted to the Council, and, together with any resolutions that may have been passed thereon by the Council, shall be submitted to the Minister through the Commissioner within six weeks of the date when they were first submitted to the Council, or within such other period as the Council, with the approval of the Commissioner, may determine.

AUDIT

180. (1) The accounts of every Town Council shall be audited during each half of the financial year by Government, and every Town Council shall, in respect of each audit for any half of any financial year, pay to Government as a contribution towards the

Audit.

cost of such audit a fee computed in the manner following, that is to say:—

- (a) where the aggregate amount of the revenue of a Town Council for any half of any such financial year is equal to or less than seventy-five thousand rupees, one per *centum* of the amount of such revenue; and
- (b) where the aggregate amount of the revenue of a Town Council for any half of any such financial year is more than seventy-five thousand rupees, one per *centum* of the first seventy-five thousand rupees of such revenue and one-half per *centum* of the amount by which such revenue exceeds seventy-five thousand rupees.

(2) For the purposes of any audit and examination of accounts under this Ordinance, the auditor may, by notice in writing, require the production before him of any books, deeds, contracts, accounts, vouchers, and any other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers to appear before him at any such audit and examination or adjournment thereof, and to make and sign a declaration in respect of the same.

(3) If any person neglects or refuses to produce any book, deed, contract, account, voucher, document, or papers, or to make or sign any declaration when required so to do under subsection (2), he shall be guilty of an offence punishable with a fine not exceeding one hundred rupees, and a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

181. (1) Every auditor acting in pursuance of this Part shall disallow every item of account contrary to law, and surcharge the same on the person making or authorizing the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person and any sum

which ought to have been, but is not, brought into account by that person, and shall in every case certify the amount due from such person.

(2) Before making any surcharge or disallowance, the auditor shall afford an opportunity to the person against whom such surcharge or disallowance is made, to be heard or to make any representations with reference to any matter which he may think fit, and shall, in the event of his making such surcharge or disallowance, on application by any such person, state in writing the reason for his decision in respect of such disallowance or surcharge.

182. (1) Any person aggrieved by any disallowance or surcharge may appeal against such decision to the Court of Appeal, and the Court of Appeal may either confirm such disallowance or surcharge, or, if it is of opinion that such disallowance or surcharge is not in accordance with law, may modify or set aside such disallowance or surcharge accordingly.

appeal and enforcement of surcharges, &c.

(2) Every appeal under subsection (1) shall be presented, prosecuted, and enforced within the time and in the manner and subject to the rules prescribed for and observed in appeal from interlocutory orders of District Courts, and all proceedings in connection therewith shall be subject to the same stamp duties as appeals from District Courts.

(3) In lieu of an appeal under subsection (1) any person aggrieved may, within thirty days of the date of the decision of the auditor duly communicated to him, appeal from such decision to the Minister, and it shall be lawful for the Minister, upon any such appeal, to decide the question at issue according to the merits of the case, and if the Minister finds that any disallowance or surcharge has been lawfully made, but that the subject-matter thereof was incurred under such circumstances as to make it fair and equitable that the disallowance or surcharge should be remitted, the Minister may direct that such disallowance or surcharge shall be remitted on payment of the costs, if any, which may have been incurred by the auditor in the enforcing of such disallowance or surcharge.

Recovery of surcharges.

Any amount directed to be recovered from any such person under any order made by the Minister may forthwith be recovered by the Commissioner or any person authorized in writing in that behalf by the Commissioner in the same manner as any sum certified to be due by an auditor is recoverable under the provisions of this section.

(4) No expenses paid by any Town Council shall be disallowed by the auditor, if such expenses have been sanctioned by the Minister.

(5) Every sum certified to be due from any person by an auditor under this Ordinance shall be paid by such person to the Commissioner within fourteen days after the sum has been so certified, unless there is an appeal against the decision, and if such sum is not so paid and there is no such appeal, it shall be the duty of the Commissioner or any person authorized in writing in that behalf by the Commissioner to recover the sum from the person against whom the sum has been certified to be due, and any sum so certified to be due may, on application to the Magistrate* having local jurisdiction, be recovered in the same manner as a fine imposed by such Magistrate,* together with all costs and expenses incurred in connection with the enforcement thereof.

(6) Every sum paid or recovered under this section, other than any sum so paid or recovered as costs and expenses incurred in the enforcement of any disallowance or surcharge, shall be credited to the local fund of the Council.

PART VIII

CENTRAL CONTROL

Removal of Chairman, and dissolution of Town Council. [§ 155, Law 24 of 1977.]

183. (1) If at any time the Minister is satisfied that there is sufficient proof of—

- (a) persistent refusal to hold or attend meetings or to vote or to transact business at any meetings that may be held ; or

- (b) wilful neglect, or misconduct in the performance, of the duties imposed by this Ordinance ; or
- (c) persistent disobedience to or disregard of the directions, instructions or recommendations of the Minister or of the Commissioner; or
- (d) incompetence and mismanagement; or
- (e) abuse of the powers conferred by this Ordinance,

on the part of the Chairman or on the part of any Town Council or any of the members thereof, the Minister may as the circumstances of each case may require, by Order published in the Gazette—

- (i) remove the Chairman from office ; or
- (ii) remove all or any of the members of the Council from office, and the provisions of section 12 (3) shall thereupon apply; or
- (iii) dissolve the Council,

and such Order shall as soon as may be convenient be laid before Parliament.

(IA) The Minister shall before making an Order under subsection (1), appoint for the purpose of satisfying himself in regard to any of the matters referred to in subsection (1), a retired judicial officer to inquire into and report upon such matter within a period of three months, and such officer shall in relation to such inquiry have the powers of a commission of inquiry appointed under the Commissions of Inquiry Act. [§ 155, Law 24 of 1977.]

(1B) (a) When the Minister appoints a retired judicial officer under subsection (IA) to inquire into any matter, the Minister may, as the circumstances of each case may require, by Order published in the Gazette— [§ 155, Law 24 of 1977.]

- (i) suspend the Chairman from office and direct the Vice-Chairman or, where the office of Vice-Chairman

* Vide also section 32 of the Judicature Act.

is vacant or where the Vice-Chairman has been suspended, the Assistant Commissioner of Local Government of the region to exercise the powers and perform the duties of the Chairman ; or

- (ii) suspend any member from office ; or
- (iii) suspend the Council and direct the Assistant Commissioner of Local Government of the region to exercise the powers and perform the duties of the Council and its Chairman;

(b) Upon the receipt of the report of the person appointed under subsection (IA) the Minister may make an Order under subsection (1) or revoke the Order made under paragraph (a) of this subsection.

(2) Every Order made under subsection (1) shall contain such directions and such supplemental, consequential and incidental provisions as may be necessary for the purpose of giving effect to the Order, and shall, on publication in the Gazette, have the force of law.

[§155, Law 24 of 1977]

(3) Where the Minister removes the Chairman of a Town Council from office by Order under subsection (1), the Chairman shall be deemed to vacate forthwith the office of member of the Council as well as the office of Chairman and the provision of written law for the time being applicable on that behalf shall thereupon apply.

(4) Where the Minister removes any member of a Town Council from office by Order under subsection (1), and a new member in pursuance of such Order is elected in place of the member so removed, the new member shall go out of office on the date on which the original member would have gone out of office if he had not been removed from office by the Minister.

[§ 5, 48 of 1971.]

(4A) (a) Where an Order is made by the Minister under subsection (1) removing a person from the office of Chairman or member of the Council, the Minister may by a subsequent Order published in the Gazette revoke the first-mentioned Order, and the publication of such subsequent Order in

the Gazette shall have the following effect, and the following effect only, namely that such person shall, notwithstanding the provisions of subsection (3) of section 9 of the Local Authorities Elections Ordinance, cease, with effect from the date of such publication, to be subject to the disqualification set out in the aforesaid subsection (3).

(b) Where the provisions of paragraph (a) are in conflict or inconsistent with any other provisions of this Ordinance or of the Local Authorities Elections Ordinance, the provisions of paragraph (a) shall prevail.

(5) Where the Minister dissolves a Town Council by Order under subsection (1), he may by the same or any subsequent Order—

- (a) appoint for a stated period, or from time to time, a Special Commissioner or Commissioners to administer the affairs of the town for which the Town Council was constituted, and, for that purpose and subject to such conditions or limitations as may be specified in the Order, to exercise the powers and perform the duties of a Town Council under this Ordinance, and
- (b) either give such directions as may be necessary for constituting for that town a new Town Council consisting of a larger or a smaller number of members, as to him may seem expedient, or
- (c) reduce or enlarge or otherwise redefine the limits of the town, and give such directions as may be necessary for constituting a Town Council for the redefined town.

(6) Where the Minister appoints any Special Commissioner or Commissioners to administer the affairs of a town upon the dissolution of the Town Council of that town, such Special Commissioner or Commissioners shall be the successor or successors of the dissolved Council and all the property and the rights under contracts

[§ 7, 42 of 1968.]

[§ 3, 2 of 1957.]

and all the powers vested in the Town Council or its Chairman by this Ordinance or any other written law shall be deemed to be vested in such Special Commissioner or Commissioners, and all the liabilities and duties of the Town Council or its Chairman under this Ordinance or any other written law shall be deemed to be transferred to and shall be discharged by such Special Commissioner or Commissioners, until the end of the period stated in the Order or until the Minister otherwise directs and the provisions of sections 233 to 240 shall, with the necessary modifications, apply in the case of the appointment of the Special Commissioner or Commissioners in the same manner as if every reference in those sections to a Town Council were a reference to the Special Commissioner or Commissioners and as if every reference in those sections to a local authority or authorities were a reference to the dissolved Town Council.

[§ 7, 42 of 1968.]

(7) At any time after the appointment of a Special Commissioner or Commissioners to administer the affairs of a town upon the dissolution of the Town Council for that town, the Minister may, by Order published in the Gazette,—

- (a) give such directions as may be necessary for constituting for that town a new Town Council consisting of the same number of members as the dissolved Town Council or of a larger or a smaller number of members, as to him may seem expedient, or
- (b) reduce or enlarge or otherwise redefine the limits of the town, and give such directions as may be necessary for constituting a Town Council for the redefined town.

[§ 7, 42 of 1968.]

(8) Where upon the termination of the administration of the affairs of a town by a Special Commissioner or Commissioners, a new Town Council is constituted for that town, the new Council shall be the successor of the Special Commissioner or Commissioners, as the case may be, and the provisions of sections 233 to 240 shall, with the necessary modifications, apply to the

case of the constitution of the new Council in the same manner as if all references to any local authority or authorities in those sections were references to the Special Commissioner or Commissioners.

184. (1) The Minister may, from time to time, cause to be made all such inquiries as may appear to be necessary in relation to any matters concerning public health in any town or any matters with respect to which his sanction, approval, or consent is required under this Ordinance.

(2) For the purpose of any inquiry under this section, the person appointed by the Minister and holding the inquiry shall have, in relation to witnesses and their examination and production of papers and accounts, the same powers as those accorded to commissions under the Commissions of Inquiry Act, and all such powers of inspection of places and matters required to be inspected as may be necessary for the purpose of the inquiry.

185. The Minister may make orders as to the costs of inquiries or proceedings instituted by or of appeals or references to, the Minister under this Ordinance, and as to the parties by whom or the funds out of which such costs shall be borne, and every such order may be registered in the District Court, and may be enforced in the same manner as a judgment of the court on the application of any person named in that behalf in the order, Costs of inquiries and proceedings.

186. (1) If at any time it appears to the Minister that any Town Council is omitting to fulfil any duty or to carry out any work imposed upon the Council by this Ordinance or any other enactment, or that the Council has otherwise made default in the discharge of any of its duties or responsibilities under this Ordinance or any other enactment, the Minister may give notice to the Council that unless within a time specified in the notice the Council show cause to the contrary, the Minister will appoint a person or persons to inquire into and report upon the facts of the case to the Minister and to make Power to make inquiry as to default in duty by Town Councils.

recommendations as to the measures that should be taken for the purpose of fulfilling such duty or carrying out such work or making good such default.

(2) Where any cause or sufficient cause is not shown by any Council to which notice is given under subsection (1), the Minister shall appoint a person or persons to hold the inquiry referred to in the notice. Such inquiry shall be held as far as practicable in public.

Power to give and enforce order requiring Council to do necessary work.

187. (1) On the receipt of the report of the person or persons appointed to hold an inquiry under section 186, the Minister shall determine what measures shall be taken for the purpose of fulfilling any duty or carrying out any work in respect of which the Town Council may have made default, and make an order requiring the Council within a time specified in the order to take such measures accordingly, and to raise the funds necessary for the purpose by some one or more of the rates or taxes provided for by this Ordinance, or by means of a loan on the security of any such rate or tax.

(2) If the Council fails to comply with the order made under subsection (1) within the specified time, the Minister may appoint some person to take the measures spmfied in the order, and may fix the remuneration to be paid to such person, and may direct that such remuneration and the cost of the measures taken in accordance with the order of the Minister shall be defrayed out of the local fund, and that, if necessary, any one or more of the rates or taxes provided for by this Ordinance shall be imposed, or increased, and levied.

(3) Any person appointed under subsection (2) shall have the same power of levying or imposing any such rate or tax and requiring all officers of the Council to pay over any moneys in their hands as the Council would have in the case of expenses legally payable out of the local fund, and such person, after paying all sums of money due in respect of the order, shall pay the surplus, if any, to or to the order of the Council.

Power to direct loan to be raised.

188. The Minister in addition to levying, imposing or increasing any rate or tax, or in lieu thereof, may direct a loan to be raised

on the security of any local rate or tax for the purpose of fulfilling any duty, or carrying out any work, or making good any default under section 187.

189. The Minister may, from time to time, certify the amount of the expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed under section 187, and the amount of any loan required to be raised for the purpose of defraying the expenses that have been so incurred, or arc estimated as about to be incurred, and a certificate of the Minister shall be conclusive as to all matters to which it relates.

Power to certify expenses.

190. (1) Whenever the Minister under section 189 certifies a loan to be necessary, the Local Loans and Development Commissioners may advance to the Commissioner or any person appointed under section 187 the amount of the loan so certified to be required on the security of any local rate or tax without requiring any other security.

Power of Local Loan Commissioners to advance loan-

(2) The Commissioner or the person appointed under section 187 may, by any instrument duly executed, charge any local rate or tax with the repayment of the principal and interest due in respect of the loan referred to in subsection (1); and every such charge shall have the same effect as if the Council were empowered to raise such loan on the security of such local rate or tax, and had duly executed an instrument mortgaging such rate or tax.

191. (1) The principal moneys or interest for the time being due in respect of any loan raised for payment of any expenses incurred or to be incurred under this Part shall be taken to be a debt due from the Council, and, in addition to any other remedies, may be recovered in manner provided by the Local Loans and Development Ordinance.

Recovery of principal and interest from the Council.

(2) The surplus of any loan, after payment of the expenses referred to in subsection (1), shall, on the amount thereof being certified by the Minister, be paid into the local fund of the Council.

Power to make general rules of procedure.

192. (1) The Minister may make rules of procedure not inconsistent with the provisions of this Ordinance, for the guidance of Town Councils and of their officers on any matter connected with the execution or enforcement of the provisions of this Ordinance, or any other written law relating to the powers and duties of Town Councils.

(2) Without prejudice to the generality of his powers under subsection (1), the Minister may under this section make rules applicable to all Town Councils or to one or more specified Town Councils for all or any of the following purposes :—

- (a) for prescribing the procedure to be followed in the preparation of the annual budget and supplemental budgets;
- (b) for requiring the preparation of plans and estimates and prescribing the details that should be shown in such plans and estimates;
- (c) for requiring the rendering of periodical returns by the several Councils to the Minister and prescribing the form and contents of such returns;
- (d) for prescribing the form of the several books of accounts to be kept by Town Councils and the manner of auditing such accounts ;
- (e) for prescribing the form of the returns and declarations to be used under section 166 for the purposes of the imposition and levy of any rate or tax;
- (f) for prescribing the principles and procedure to be followed in assessing the annual value of any immovable property for the purposes of any rate ;
- (g) for prescribing in the case of officers and servants of a Town Council—
 - (i) the qualifications necessary for appointment to each post or class or grade of posts ;
 - (ii) the scales of the salaries to be attached to each post or class or grade of posts;

- (iii) the terms and conditions and the duration of any leave of absence that may be granted ;
- (iv) the rates of subsistence or travelling allowances payable by way of reimbursement of expenses incurred in the performance of any duty;

(gg) for prescribing the rates at which allowances payable to the Chairman, Vice-Chairman and members of Town Councils ; [§ 156, Law 24 of 1977.]

- (h) for prescribing the rates of the travelling or other allowances payable to members of Town Councils by way of reimbursement of expenses incurred in the performance of any duty under this Ordinance;
- (i) for prescribing the powers, duties and functions of the Chairman in his capacity of chief executive officer of a Town Council;
- (j) for prescribing the officers by whom and the manner in which cheques or orders for payment may be signed and issued on behalf of a Town Council;
- (k) for declaring an officer of a Town Council to be an executive officer for the purposes of section 227 ;
- (l) for any other purpose connected with or incidental to the purposes set out in the foregoing paragraphs of this subsection.

193. (1) Every rule made by the Minister under section 192 shall be published in the Gazette and shall be brought before Parliament as soon as may be after such publication, by a motion that such rule shall be approved. Notification of such approval shall be published in the Gazette.

Approval and ratification of rules.

(2) Every rule made by the Minister shall, when approved by Parliament, be as valid and effectual as if it were herein enacted, and shall prevail over any by-law made by a Town Council in respect of the same matter or for the same purpose,

Power to make recommendations as to policy.

194. The Minister or the Commissioner may—

- (a) bring to the notice of any Town Council any measure which, in the opinion of the Minister or the Commissioner, ought to be taken within the town administered by the Council in the interests of public health or safety; or
- (b) bring to the notice of any Town Council any general question of administrative policy as to which it is desirable, in the opinion of the Minister or the Commissioner, that the Council should co-ordinate its policy with the policy generally in force in Sri Lanka or in any part of Sri Lanka.

exercise of his powers under this section shall act in consultation with the Chairman of the Town Council;

Provided, further, that it shall be the duty of the officers of the Town Council to afford to the Commissioner or the authorized officer of Government all such reasonable assistance as he may require for the exercise of his powers under this section.

197. The Commissioner shall prepare and transmit to the Chairman of each Town Council a report containing a general survey of the affairs of the Council in each year, and the Chairman shall cause such report to be tabled for the information of the members of the Council at the next meeting of the Council held after the receipt of such report.

Annual report of Commissioner on affairs of each Town Council.

Power to inspect books, &c., of Town Councils.

195. The Minister or the Commissioner, or any person generally or specially authorized in that behalf by the Minister or the Commissioner may—

- (a) inspect any public building, immovable property or institution used, occupied, or carried on, by or under the control of a Town Council, or any work in progress under the direction of a Town Council;
- (b) call for and inspect any book or document in the possession or under the control of a Town Council;
- (c) require any Town Council to furnish such statements, account's, reports, or copies of documents relating to the proceedings or duties of the Council, or any committee of the Council.

198. The annual or any supplementary budget of every Town Council and every variation thereof shall be communicated to the Commissioner, and every Town Council shall furnish to the Commissioner all such reports, particulars, or explanations with regard to any such budget or variation thereof as the Commissioner may require.

Budgets to be submitted to the Commissioner.

199. Where, in the opinion of the Minister, the financial position of any Town Council is such as to make the control of the Commissioner over its budget desirable, the Minister may direct that in the case of such Council the annual and every supplementary budget of that Council and any variation thereof shall, until the Minister otherwise directs, be subject to the sanction of the Commissioner; and in any such case it shall be the duty of the Council to conform to any directions of the Commissioner with respect to any such budget or variation thereof.

Power of Commissioner to exercise control over budget of Town Council.

Powers of Commissioner and authorized officers.

196. The Commissioner or any officer of Government authorized in that behalf shall, within the town administered by any Town Council, have the same powers of entry and inspection, and all other powers and authorities required for the due exercise and discharge of their respective functions as the officers of the Town Council:

Provided that the Commissioner or the authorized officer of Government in the

200. If any question arises between two or more Town Councils, or between any Town Council or Councils, and any other local authority, with reference to the rights, powers, duties, or obligations of any such Town Council or authority, or as to any question arising out of the exercise or intended exercise or enforcement of any such right, power, duty or obligation, such dispute may, if all parties consent, or if all parties do not consent, on the application of

Determination of disputes.

any party to the Minister, be referred by the Minister to the Commissioner, and any order made by the Commissioner with reference to such dispute shall be deemed to be a final settlement of all matters in issue.

Power to extend time, Ac.

201. The Minister may, on the application of any Town Council or of any person affected, and after making such inquiries as he may think necessary, extend the time or postpone the date fixed for any act or proceeding (not being a judicial proceeding) under this Ordinance, or any by-law, rule, or regulation made thereunder, and may make such consequential order as may be necessary to give effect to such extension.

Delegation of powers to Commissioner.

202. The Minister may, by Order published in the Gazette, transfer to the Commissioner any power vested in the Minister by or under any enactment other than this Ordinance in respect of any matter within the competence of any Town Council, or may direct that any such power shall be exercised by a Town Council after consultation with the Minister and all enactments with reference to such powers shall be construed accordingly:

Provided that every Order made under this section shall be subject to the confirmation of Parliament.

PART IX

GENERAL

RECOVERY OF CHARGES AND EXPENSES

Power of Town Council on default made by owner or occupier to execute works and recover expenses.

203. Whenever under the provisions of this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, a Town Council requires any work to be executed by the owner or occupier of any house, building, or land, and default is made in the execution of such work, the Town Council, whether or not any penalty is provided for such default, may cause such work to be executed, and the expenses therein incurred by the Council shall be paid by the person by whom such work ought to have been executed, and shall be recoverable as provided by this Part.

204. (1) If the person making any default referred to in section 203 is the owner of the house, building, or land, the Council may, by way of additional remedy, whether or not an action or proceeding has been brought or taken against such owner, require the payment of all or any part of the expenses payable by the owner for the time being, from the person who then or at any time thereafter occupies the house, building, or land under such owner.

Power to levy charges on occupier, who may deduct the same from his rent.

(2) The whole or any part of any expenses referred to in subsection (1) shall, in default of payment by the occupier on demand, be levied by distress of the goods and chattels of such occupier.

(3) Where any sum in respect of expenses incurred by the Council is paid by or recovered from the occupier under subsection (1) or subsection (2), the occupier shall be entitled to deduct such sum from the rent payable by him to the owner and to retain possession of the house, building, or land until such sum is fully reimbursed to him.

205. (1) No occupier of any house, building, or land shall be liable to pay more money in respect of any expenses charged by this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent and the address of the person to whom such rent is payable.

Occupiers not to be liable to more than the amount of rent due.

(2) The burden of proof that the sum demanded of any occupier is greater than the rent which was due by him at the time of such demand or which has since accrued, shall be upon such occupier.

(3) Nothing herein contained shall be taken to affect any special contract made between any owner and occupier respecting the payment of the expense of any such works as aforesaid.

Occupier in default of owner may execute works and deduct expenses from rent.

206. (1) Whenever default is made by the owner of any house, building, or land in the execution of any work required to be executed by him, the occupier of such house, building, or land may, with the approval of the Council, cause such work to be executed, and the expenses thereof shall be paid to him by the owner, or the amount may be deducted out of the rent, from time to time, becoming due from him to such owner.

(2) The owner of any house, building, or land shall not be entitled to eject the occupier thereof until any expenses incurred by the occupier under subsection (1) shall have been fully paid or deducted as provided by that subsection.

Obstruction by occupiers.

207. If the occupier of any house, building, or land prevents the owner thereof from carrying into effect, in respect of such house, building, or land, any of the provisions of this Ordinance or of any by-law, or regulation made thereunder, after notice of his intention so to do has been given by the owner to such occupier, the Council, upon proof thereof and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such house, building, or land as may be necessary for carrying into effect the provisions of this Ordinance, or of any by-law or regulation made thereunder, and may also, if it thinks fit, order the occupier to pay to the owner the costs relating to such application or order, and if, after the expiration of eight days from the date of the order, such occupier continues to refuse to permit such owner to execute such works, such occupier shall be guilty of an offence punishable with a fine not exceeding fifty rupees for every day during which he so continues to refuse, 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,

208. If neither the owner nor the occupier of any house, building, or land pays the expenses incurred by the Council, the amount of the expenses shall be a charge upon the house, building, or land in respect of which the expenses were incurred, and payable as a debt due to the Council.

Remedy if neither the owner nor occupier pays the expenses.

209. (1) Except as herein otherwise provided, in all cases where damages, costs, or expenses are payable under the provisions of this Ordinance or any other enactment, or of any by-law, rule, or regulation made thereunder, the amount, in case of dispute, and, if necessary, the apportionment of the same shall be ascertained and determined in manner following:—

Determination and recovery of damages, costs, &c.

- (a) where the amount claimed does not exceed one hundred rupees, by a Magistrate after a summary inquiry into the claim;
- (b) where the amount claimed exceeds one hundred rupees and does not exceed one thousand five hundred rupees, by the Primary Court having local jurisdiction;
- (c) where the amount claimed exceeds one thousand five hundred rupees, by the District Judge having local jurisdiction.

(2) In the cases referred to in paragraphs (b) and (c) of subsection (1), the claim shall be made by instituting a civil action therefor. Such action shall be heard and determined according to the procedure prescribed by the law for the time being in force regulating the hearing and determination of actions brought in Primary Courts and District Courts respectively.

(3) Any person aggrieved by a decision of a Magistrate under paragraph (a) of subsection (1) may appeal therefrom to the Court of Appeal in accordance with the provisions of section 320 of the Code of Criminal Procedure Act.

(4) Any person aggrieved by a decision under paragraphs (b) and (c) of subsection (1) may appeal therefrom to the Court of Appeal. Such appeals shall be

subject to the provisions relating to appeals to the Court of Appeal contained in the Primary Courts' Procedure Act and in the Civil Procedure Code respectively.

Recovery of damages.

210. If the amount of damages, costs, or expenses determined by the Magistrate under section 209 is not paid by the person liable to pay the same within seven days after demand, the default may be reported to such Magistrate, and the amount thereof shall be recovered in the same manner as if it were a fine imposed by such Magistrate.

Recovery of expenses on account of improvement to private property.

211. Where a Town Council incurs any expenses in executing any of the works or performing any of the acts which under this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, the owner of any house, building, or land is required to execute or perform, the Council may either recover the amount of such expenses in the manner provided by section 209, or, if it thinks fit, may accept any undertaking given by the owner for the payment by instalments of such sums as will be sufficient to defray the whole amount of the expenses, with interest thereon at the rate of nine *per centum* per annum, within a period not exceeding five years, and such sums when due may be recovered by the same process by which rates payable under this Ordinance may be recovered.

PAYMENT OF COMPENSATION

Council may make compensation out of local fund.

212. A Town Council may make compensation out of the local fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Council, its officers, or servants under and by virtue of this Ordinance, or any by-law made thereunder.

Determination and payment of compensation.

213. Except as herein otherwise provided, in all cases where compensation is by this Ordinance, or by any by-law made thereunder, directed to be paid, the amount and, if necessary, the apportionment of such compensation in case of dispute, shall be determined in the same manner as a claim for damages, costs or expenses under section 209, and all the provisions of that section shall, with the necessary modifications, apply to the determination of all questions under this section.

PROCEDURE AND LEGAL PROCEEDINGS

214. (1) Any notice, order or other document required or authorized to be served under this Ordinance, or any by-law made thereunder, may be served by delivering the document to or at the residence of the person to whom it is addressed, or when addressed to the owner or occupier of any premises, by delivering the document or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served, by affixing the document on some conspicuous part of the premises:

Service of notices.

Provided always that where a Town Council has made provision for the registration of owners of property and any owner of property has registered his name and address in accordance therewith, every such notice, order or document shall be served upon him by registered letter at such address.

(2) Any notice, order or other document may also be served by post by registered letter, and if so served, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the notice, order or other document was properly addressed and put into the post.

(3) Any notice, order or other document required by this Ordinance to be given to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

215. All notices which a Town Council or any officer thereof is empowered or required to give or receive and all notices for the giving or receipt of which by the Council occasion may otherwise arise, may be given or received by the secretary of the Council or any other of its officers authorized by by-law for the purpose.

Notices may be given or received by secretary or any other officer authorized thereunto.

216. Every offence under this Ordinance shall be triable summarily by the Magistrate having local jurisdiction, and any penalty

Offences to be tried by Magistrate.

prescribed by this Ordinance may be imposed by such Magistrate, notwithstanding that such penalty may exceed the limits placed on his jurisdiction by any other written law.

given by him under that subsection; and unless such notice be proved, the court shall find for the defendant.

Limitation of prosecutions.

217. No person shall be liable to any fine or penalty under this Ordinance, or any by-law made thereunder, for any offence triable by a Magistrate, unless the complaint respecting such offence shall have been made within three months next after the commission of such offence.

219. (1) No matter or thing done and no contract entered into by any Town Council, and no matter or thing done under the direction of any Town Council by any member or officer of such Council or by any other person whomsoever, shall, if the matter or thing so done or the contract so entered into was done or entered into bona fide for the purposes of this Ordinance or any other enactment relating to the powers and duties of a Town Council, or any by-law, or rule made thereunder, subject any member of the Council or any such officer or other person, in his private capacity, to any action, liability, claim, or demand whatsoever; and any expenses incurred by any such Council or by any member, officer, or other person acting as aforesaid, shall be borne and repaid out of the local fund.

Protection of Council and its officers.

No action to be instituted against Council until after one month's notice, nor after six months after cause of action.

218. (1) No action shall be instituted against any Town Council or any member or any officer of the Council or any person acting under the direction of the Council for anything done or intended to be done under the powers conferred by this Ordinance, or any by-law made thereunder, until the expiration of one month next after notice in writing shall have been given to the Council or to the defendant, stating with reasonable certainty the cause of such action and the name and the place of abode of the intended plaintiff and of his attorney-at-law or agent, if any, in such action.

(2) Subject and without prejudice to any other powers, a Town Council in any case where the defendant in any action, prosecution, or other proceeding is a member of the Council, or its officer, agent, or servant, may, if it thinks fit, except so far as the court before which the action, prosecution, or other proceeding is heard and determined otherwise directs, pay out of the local fund all or any part of any sums payable by the defendant in or in consequence of the action, prosecution, or proceeding, whether in respect of costs, charges, expenses, damages, fines, or otherwise:

(2) Every action referred to in subsection (1) shall be commenced within six months next after the accrual of the cause of action and not afterwards.

(3) If any person to whom notice of action is given under subsection (1) shall before action is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs by the plaintiff.

Provided that nothing in this section shall exempt any member of any Town Council from liability to be surcharged with the amount of any payment which may be disallowed upon the audit of the accounts of such Council, and which such member authorized or joined in authorizing.

(4) If no tender of amends is made under subsection (3), it shall be lawful for the defendant by leave of the court before which such action is pending, at any time before issue is joined, to pay into court such sum of money as he may think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

220. If the directions of this Ordinance, or of any by-law made thereunder, are in substance and effect complied with, no proceedings under this Ordinance, or under such by-law shall be quashed or set aside for want of form in any Court of Justice.

Relief against informalities.

(5) Upon the trial of any action referred to in subsection (1), the plaintiff shall not be permitted to prove any cause of action other than the cause of action stated in the notice

POWERS AND RESPONSIBILITIES OF OFFICERS

Delegation of powers of Chairman to officers of Council.

221. All duties and powers which the Chairman of a Town Council is empowered to perform and exercise by this Ordinance or by any other enactment, or any by-law, rule or regulation made thereunder, may be performed and exercised by any officer of the Council generally or specially authorized thereto in writing by the Chairman, subject to the directions and control of the Chairman, for such period and to such extent, if any, as may be specified in such written authority.

Power of Council to grant general authorities to its officers.

222. A Town Council may, by resolution, grant a general authority to any officer of the Council to do, give, or receive, as may be necessary, from time to time, subject to the general control of the Chairman, all acts, receipts, and approvals which the Council is empowered to do, give, or receive by this Ordinance or any other enactment, or by any by-law, rule, or regulation made thereunder, and all acts, receipts, and approvals done or given or received by such officer, so long as such resolution remains in force, shall be as binding and valid, as if such acts, receipts, and approvals were done or given by the Council.

Punishment for obstructing officers of Council.

223. Whoever shall wilfully obstruct any officer of a Town Council in the performance of any duty or in the exercise of any authority vested in or conferred upon him under or by virtue of any of the provisions of this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, shall be guilty of an offence, and liable, upon conviction after summary trial before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment of either description for any term not exceeding three months.

Penalty for misuse of power by officers of Council.

224. Any officer of a Town Council who, under pretence of performing any act under the authority of this Ordinance, or any by-law or rule made thereunder, uses any unnecessary violence or causes any vexation or annoyance to any person, shall be guilty of an offence and liable on conviction thereof after summary trial before a Magistrate to a fine not exceeding fifty rupees.

225. (1) No member, officer, or servant of any Town Council shall, whether directly or indirectly, be concerned or have any financial interest in any contract or work made with or executed for the Council.

Officers and servants of Council not to be interested in contracts.

(2) If any member, officer, or servant of a Town Council is concerned or has any financial interest in any contract or work made with or executed for the Council, he shall be guilty of an offence punishable with a fine not exceeding five hundred rupees, and shall, as the case may be, be disqualified from sitting as a member of the Council or from holding any office or employment under the Council:

Provided, however, that no person being a shareholder of any incorporated company shall be liable to such fine by reason only of any contract between such company and the Council or of any work executed by such company for the Council.

226. Every officer or servant of a Town Council who is paid out of the local fund, and every contractor or agent to whom the collection of any tax or of any payment on account of any land or building of a Town Council is entrusted by or under the authority of a Town Council, and every servant or other person employed by such contractor or agent for the collection of such tax or payment, shall be deemed to be a public servant within the meaning of that term as used in the Penal Code.

Officers and servants of Town Council to be public servants.

227. (1) No executive officer of a Town Council shall be removed or dismissed from his office except for misconduct or for neglect of, or incapacity for, his duties, and except on a resolution passed by not less than two-thirds of the total number of members of the Council.

Disciplinary action against officers of Town Council.

(2) No executive officer of a Town Council shall be suspended or fined or reduced in status nor shall the increments to his salary be withheld for any breach of departmental rules or discipline or for carelessness, incompetence, neglect of duty or other misconduct except on a resolution passed by not less than two-thirds of the total number of members of the Council.

CHAPTER 367

TOWER HALL THEATRE FOUNDATION

Act
No. 1 of 1978.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FOUNDATION CALLED THE TOWER HALL THEATRE FOUNDATION, TO SPECIFY ITS OBJECTS AND POWERS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th October, 1978.]

Short title.

1. This Act may be cited as the Tower Hall Theatre Foundation Act.

(k) five persons appointed by the Prime Minister, of whom two shall be persons of recognized competence or eminence in the Arts. Each member appointed under this paragraph shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment.

Establishment of Tower Hall Theatre Foundation

2. There shall be established a Foundation to promote national theatrical activities, and to restore and utilize the Tower Hall Theatre as a National Theatre.

Constitution of Board of Trustees and meetings.

3. (1) The Foundation shall be administered by a Board of Trustees (hereafter in this Act referred to as the "Board") consisting of the following members;—

(2) The Chairman or, in the absence of the Chairman from any meeting, any member elected from among the members present shall preside at such meeting.

(a) the Prime Minister who shall be the Chairman of the Board;

(3) The quorum for a meeting of the Board shall be six members.

(b) the Minister in charge of the subject of Local Government;

(4) Subject to the provisions of subsection (3), the Board may regulate the procedure in regard to the meetings of the Board, and the transaction of business at such meetings.

(c) the Minister in charge of the subject of Finance;

(5) The Board may act notwithstanding a vacancy amongst its members.

(d) the Minister in charge of the subject of Cultural Affairs;

(e) the Secretary to the Prime Minister;

(f) the Secretary to the Ministry charged with the subject of Local Government;

4. The Foundation 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.

The Foundation to be a Corporation.

(g) the Secretary to the Ministry charged with the subject of Education;

5. The seal of the Foundation—

Seal of the Foundation.

(h) the Director of Cultural Affairs;

(a) shall be in the custody of such persons as the Board may from time to time determine;

(i) the Mayor of the Colombo Municipal Council;

(j) the Municipal Commissioner, Colombo Municipal Council; and

(b) may be altered in such manner as may be determined by the Board; and

(c) shall not be affixed to any instrument or document except with the sanction of the Board, and in the presence of two members of the Board who shall sign the instrument or document in token of their presence.

exchange, or otherwise dispose of, any movable or immovable property other than the Tower Hall Theatre;

(c) to give grants, endowments or scholarships for the furtherance of the objectives of the Foundation;

(d) to enter into or perform, either directly or through officers and servants or agents authorized in writing in that behalf by the Foundation, all such contracts and agreements as may be necessary for the exercise, discharge and performance of the powers, functions and duties, and in carrying out the objects of the Foundation;

(e) subject to the provisions of this Act to appoint, employ and remunerate officers and servants of the Foundation and to make rules regarding the appointment, promotion, remuneration and disciplinary control of its employees and the grant of leave and other benefits to them;

(f) to make rules in relation to the management and maintenance of the Theatre and the levy of charges for the use of the Theatre or any part thereof or for the public viewing of the Theatre or any part thereof;

(g) to invest funds belonging to the Foundation at the discretion of the Board in any such investments as are authorized by law for the investment of trust money and to recall, reinvest and vary such investments at the discretion of the Board and to collect income accruing from such investments; and

(h) to make rules in relation to all matters connected with the working of the Foundation.

6. The aims and objects of the Foundation shall be—

(a) to encourage and promote national theatrical activities;

(b) to develop and improve the knowledge, understanding and practice of the Theatre;

(c) to provide financial assistance to Theatre artistes and craftsmen, and to assist in the training of artistes ;

(d) to engage in the production, experimentation and performance of opera, dance, drama and music; and

(e) to restore, preserve, maintain and utilize the Tower Hall Theatre as a national monument in order to secure the objectives set out above and for such other purposes as the Board may consider fit, so however that the Theatre shall not be used for partisan political purposes.

7. (1) The Foundation shall have the power to do all things as are necessary for, or conducive or incidental to, the carrying out of the objects of the Foundation.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Foundation may exercise and discharge the following powers and functions:—

(a) to receive grants, gifts or donations in cash or kind whether from local or foreign sources;

(b) to take or hold any property, movable or immovable, which may become vested in it by this Act or by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and to sell, mortgage, lease, grant, convey, devise, assign,

8. The Tower Hall Theatre and the premises appurtenant thereto shall be and are hereby vested irrevocably in the Foundation.

Vesting of Tower Hall Theatre.

The objects of the Foundation.

Powers, duties and functions of the Foundation.

Establishment of Tower Hall Theatre Foundation Fund.

9. (1) There shall be established a Fund called the Tower Hall Theatre Foundation Fund (hereafter in this Act referred to as the "Fund").

(2) The Board shall have the power to manage, control and operate the Fund.

(3) The Government may donate to the Foundation from time to time grants for the purpose of carrying out the aims and objects of the Trust.

Payments into the Fund.

10. There shall be paid into the Fund—

- (a) any gifts or donations of money ;
- (b) any grant received from the Government under section 9;
- (c) any income derived from the levy of charges for the use of the Theatre or any part thereof and by the sale of tickets for admission;
- (d) any income derived from the levy of charges for the public viewing of the Theatre or any part thereof; and
- (e) any income from investments or other receipts due to the Foundation.

Payments out of the Fund.

11. There shall be paid out of the Fund—

- (a) expenses necessary for the working, establishment and maintenance of the Foundation;
- (b) the cost of acquisition, renovation and improvements of the Theatre so far incurred by the Colombo Municipal Council;
- (c) the cost of maintenance, additions, alterations or improvements to the Theatre;
- (d) the payment of salaries to officers, servants and other employees; and
- (e) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Foundation.

12. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Foundation. Accounts and audit.

(2) The Board shall cause its books to be balanced as on the thirty-first of December in each year and shall, before the thirty-first of March next, cause to be prepared an income and expenditure account and a balance sheet containing a summary of the assets and liabilities of the Foundation made up to the first-mentioned date.

(3) The income and expenditure account and the balance sheet shall be signed by the Chairman of the Board and by such other officers of the Foundation as may be authorized by the Board to do so.

(4) The accounts of the Foundation shall be audited by a qualified auditor.

(5) The Board shall annually prepare a report of the work of the Foundation and a report of the finances during the year completed, which shall together with the report of the qualified auditor, be tabled in Parliament and be published in the Gazette for general information before the lapse of the year succeeding the year to which such report of the finances relate.

13. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may exempt the Foundation from the payment of any customs duty on any goods imported by the Foundation, if the import of such goods is considered to be conducive for the advancement of the aims and objects of the Foundation. Exemption of Foundation from certain duties and taxes.

(2) The Foundation shall be exempt from any income tax or wealth tax payable under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979).

(3) The Foundation shall be exempt from the payment of any rates under the Municipal Councils Ordinance.

(4) Where any person makes a gift to the Foundation he shall be exempt from the payment of gifts tax under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), to the extent of the total value of the gift.

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(5) Where any person makes a donation to the Foundation such donation shall be deemed to be an approved expenditure for the purposes of the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), and the donor shall be entitled to relief under that Act in respect of the total value of such donation.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary in the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), and the Municipal Councils Ordinance.

temporarily appointed to the staff of the Foundation 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 the Local Government Service Advisory Board or that authority.

(6) Where any person is temporarily appointed to the staff of the Foundation under this section, he shall be subject to the same disciplinary control as any other member of such staff.

Appointment of public officers and members of the Local Government Service to the Foundation.

14. (1) 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 Foundation for such period as may be determined by the Board with like consent, or be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Foundation, the provisions of subsection (2) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Foundation, the provisions of subsection (3) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Foundation employs any person who has entered into a contract with the Government to serve the Government for a specified period, any period of service to the Foundation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Board, 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 Local Government Service Advisory Board or that authority, as the case may be, be

15. (1) No suit or prosecution shall be instituted against any member of the Board or against any officer, servant or agent of the Foundation appointed for the purposes of this Act for any act which is in good faith done or purported to be done by such person under this Act or on the direction of the Board,

(2) Any expense incurred by the Foundation in any suit or prosecution brought by or against the Foundation before any court shall be paid out of the funds of the Foundation, and any costs paid to, or recovered by, the Foundation in any such suit or prosecution shall be credited to the funds of the Foundation.

(3) Any expense incurred by any 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 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 Foundation unless such expense is recovered by him in such suit or prosecution.

16. No writ against person or property shall be issued against any member of the Board or any officer or servant of the Foundation in any action brought against the Foundation.

17. All officers and servants of the Foundation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Protection of members of the Board and officers, &c., of the Foundation for action under this Act.

No writ to issue against person or property of a member of the Foundation.

Officers and servants of the Foundation deemed to be public servants under the Penal Code.

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

18. The Foundation shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall accordingly apply.

Interpretation.

19. In this Act, unless the context otherwise requires—

" 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;

" 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.

CHAPTER 296

TEMPLE LANDS (COMPENSATION)

Ordinance
No. 28 of 1944,
Act
No. 9 of 1950.

AN ORDINANCE TO MAKE PROVISION FOR THE PAYMENT TO THE PUBLIC TRUSTEE OF MONEYS PAYABLE AS COMPENSATION UNDER THE LAND ACQUISITION ACT IN RESPECT OF LANDS BELONGING TO TEMPLES ; FOR THE APPLICATION OF SUCH MONEYS TO CERTAIN PURPOSES ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[5 th September. 1944.]

Short title.

1. This Ordinance may be cited as the Temple Lands (Compensation) Ordinance.

in consultation with such trustee or controlling *viharadhipati*, be applied by him to one or more of the following purposes: —

Compensation for acquisition of temple land to be paid to Public Trustee.

2. (1) Where any land belonging to a temple is acquired for public purposes under the Land Acquisition Act—

(a) the Public Trustee * shall be entitled to claim to be a person interested in that land, and to appear, as a person so interested, in any proceedings taken under that Act in connexion with the acquisition of that land; and

(a) the purchase of land for that temple ;

(b) the maintenance of the *bhikkus* of that temple;

(c) the construction of buildings for the accommodation of the *bhikkus* of that temple;

(b) notwithstanding anything in that Act, all sums of money awarded under that Act as compensation for or in respect of the acquisition of that land, less any costs which a court determining the amount of such compensation orders the Public Trustee * to pay, shall be paid to the Public Trustee. *

(d) the construction of buildings and other structures necessary for the due performance of religious worship and such customary ceremonies as heretofore maintained in, or by, or in connexion with that temple ;

(2) Notwithstanding anything in the Buddhist Temporalities Ordinance, no sum of money paid as compensation under the Land Acquisition Act for or in respect of the acquisition of any land belonging to a temple shall vest in the trustee or the controlling *viharadhipati* of that temple.

(e) any other purpose which is likely to promote the aims and activities of that temple and which is approved by the advisory board appointed under the Buddhist Temporalities Ordinance.

Application and investment of moneys received by Public Trustee as compensation for acquisition of temple land.

3. (1) All sums received by the Public Trustee * as compensation under the Land Acquisition Act for or in respect of the acquisition of any land belonging to a temple shall be deposited by him in the joint names of himself and of the trustee or controlling *viharadhipati* of such temple in a bank approved by the Minister, and shall,

(2) Where in any case referred to in subsection (1), the sums received by the Public Trustee * or any part thereof cannot, in the opinion of the Public Trustee* and of the trustee or controlling *viharadhipati*, be applied immediately or at an early date to any of the purposes specified in that

* See also the Buddhist Temporalities (Amendment) Act, No. 42 of 1981.

subsection, such sums or part thereof shall be invested by the Public Trustee,* in the joint names of himself and of the trustee or controlling *viharadhipati*, in any of the securities prescribed in section 20 of the Trusts Ordinance for the investment of trust property which consists of money.

(3) In the event of any disagreement between the Public Trustee* and the trustee or controlling *viharadhipati* as to the purpose to which any sum mentioned in subsection (1) should be applied or as to any investment to be made under subsection (2), the Public Trustee * shall submit the matter in dispute to the Minister for decision, and such decision shall be final.

4. Where any moneys received by the Public Trustee * as compensation under the Land Acquisition Act for or in respect of the acquisition of any land belonging to a temple are applied by him under section 3 to the purchase of any land or to the

construction of any building or other structure, then the land so purchased or the building or structure so constructed, and where any such moneys are invested in securities under that section, then the interest derived from the investment, shall become the property of that temple and shall vest in the trustee or controlling *viharadhipati* of that temple in accordance with the provisions of section 20 of the Buddhist Temporalities Ordinance.

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

"controlling *viharadhipati*", "*paraveni panguwa* ", " Public Trustee " *, " temple ", and " trustee " have the same meaning as in the Buddhist Temporalities Ordinance; and

" land " has the same meaning as in the Land Acquisition Act, but does not include & *paraveni panguwa*.

Vesting of property acquired and of interest from investments.

* See also the Buddhist Temporalities (Amendment) Act, No. 42 of 1981.

Cap. 614] TEMPORARY LEVY ON SALARIES OF PUBLIC SERVANTS

CHAPTER 614

TEMPORARY LEVY ON SALARIES OF PUBLIC SERVANTS

Ordinance
No. 8 of 1932.

AN ORDINANCE TO ENABLE A TEMPORARY LEVY TO BE IMPOSED ON THE SALARIES AND WAGES OF PERSONS EMPLOYED IN THE PUBLIC SERVICE.

[21st March. 1932.]

Short title.

1. This Ordinance may be cited as the Temporary Levy on Salaries of Public Servants (Enabling) Ordinance.

during the period of its operation or the issue of any new Order to take effect on or at any time after the expiration of any preceding Order.

Authority to impose temporary levy on salaries and wages of public servants.

2. (1) Whenever the President considers that, for the purpose of assisting in the maintenance of the financial stability of Sri Lanka, it is expedient to impose, for the benefit of the public revenue, a temporary levy on the salaries and wages of persons employed in the public service, he may, by Order, authorize the deduction from the salaries and wages payable to such of the persons aforesaid as the Order shall specify a sum calculated in such manner as the Order shall prescribe.

3. All deductions from salaries or wages made under any Order authorized by section 2 shall be credited to the Consolidated Fund, or to the revenue of the service to which such salaries or wages are primarily chargeable, in such manner as the Order shall prescribe^

Deductions to be credited to Consolidated Fund.

Period of operation to be stated in Order.

(2) An Order issued under this section shall state the period for which it is to remain in operation unless previously revoked:

4. No deductions from salaries or wages made under any Order authorized by section 2 shall be taken into account in the calculation of any pension or gratuity based on salaries or wages, or in the calculation of any abatement of salaries required by the Widows' and Orphans' Pension Fund Ordinance, or by any enactment amending or substituted for that Ordinance.

Deductions not to affect pensions or gratuities or contributions required by the Widows' and Orphans' Pension Fund Ordinance.

Provided that nothing in this subsection shall prejudice the amendment of any Order

CHAPTER 154

TERMINATION OF EMPLOYMENT OF WORKMEN

Act
No. 45 of 1971,
Law
No. 4 of 1976.

AN ACT TO MAKE SPECIAL PROVISIONS IN RESPECT OF THE TERMINATION OF THE SERVICES OF WORKMEN IN CERTAIN EMPLOYMENTS BY THEIR EMPLOYERS.

[21st May, 1971.]

Short title.

1. This Act may be cited as the Termination of Employment of Workmen (Special Provisions) Act.

to which his approval should be granted, including any particular terms and conditions relating to the payment by such employer to the workman of a gratuity or compensation for the termination of such employment; and

Regulation of the termination by employers of the scheduled employments of workmen.

2. (1) No employer shall terminate the scheduled employment of any workman without—

- (a) the prior consent in writing of the workman; or
- (b) the prior written approval of the Commissioner.

(f) 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 whether by way of writ or otherwise— [§2, Law 4 of 1976.]

(2) The following provisions shall apply in the case of the exercise of the powers conferred on the Commissioner to grant or refuse his approval to an employer to terminate the scheduled employment of any workman:—

- (i) in any court, or
- (ii) in any court, tribunal or other institution established under the Industrial Disputes Act.

- (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 shall grant or refuse such approval within three months from the date of receipt of an application in that behalf made by such employer;
- (d) the Commissioner shall give notice in writing of his decision on the application to both the employer and the workman;
- (e) the Commissioner may, in his absolute discretion, decide the terms and conditions subject

(3) Any person who fails to comply with any decision made by the Commissioner under subsection (2) shall be guilty of an offence and shall, on conviction after 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, Law 4 of 1976.]

(4) For the purposes of this Act, the scheduled employment of any workman shall be deemed to be terminated by his employer if for any reason whatsoever, otherwise than by reason of a punishment imposed by way of disciplinary action, the services of such workman in such employment are -terminated by his employer, and such termination shall be deemed to include— [§2, Law 4 of 1976.]

- (a) non-employment of the workman in such employment by his employer, whether temporarily or permanently, or

TERMINATION OF EMPLOYMENT OF WORKMEN

- (b) non-employment of the workman in such employment in consequence of the closure by his employer of any trade, industry or business. contravention of the provisions of any law for the time being in force.

The provisions of this Act, other than this section, not to apply in certain cases or circumstances.

3. (1) The provisions of this Act, other than this section, shall not apply—

- (a) to an employer by whom less than fifteen workmen on an average have been employed during the period of six months preceding the month in which the employer seeks to terminate the employment of a workman; or

- (b) to the termination of employment of any workman who has been employed by an employer for a period of less than one year; or

[§3, Law 4 of 1976.]

- (c) to the termination of employment of any workman who has been employed by an employer where such termination was effected by way of retirement in accordance with the provisions of—

- (i) any collective agreement in force at the time of such retirement, or
- (ii) any contract of employment wherein the age of retirement of such workman is expressly stipulated; or

- (d) to the Government in its capacity as an employer; or

- (e) to the Government in its capacity as an employer of the Local Government Service; or

- (f) to any local authority in its capacity as an employer; or

- (g) to any co-operative society in its capacity as an employer; or

[§3, Law 4 of 1976.]

- (h) to any public corporation in its capacity as an employer; or

- (i) to the termination of employment of any workman who has been employed by an employer in

(2) The other provisions of this Act shall be read and construed subject to the provisions of subsection (1), and in particular, but without prejudice to the generality of the preceding provisions of this subsection, the terms " employer", " employers ", " workman " and " workmen" occurring in such other provisions shall be so read and construed.

4. The provisions of Part IVB of the Industrial Disputes Act shall not apply to any workman within the meaning of this Act.

Part IVB of the Industrial Disputes Act not to apply to any workman.

5. Where an employer terminates the scheduled employment of a workman in contravention of the provisions of this Act, such termination shall be illegal, null and void, and accordingly shall be of no effect whatsoever.

Termination of scheduled employment of a workman in contravention of this Act to be null and void.

6. Where an employer terminates the scheduled employment of a workman in contravention of the provisions of this Act, the Commissioner may order such employer to continue to employ the workman, with effect from a date specified in such order, in the same capacity in which the workman was employed prior to such termination, and to pay the workman his wages and all other benefits which the workman would have otherwise received if his services had not been so terminated ; and it shall be the duty of the employer to comply with such order. The Commissioner shall cause notice of such order to be served on both such employer and the workman.

Power of Commissioner to issue orders and duty of employers to comply with such orders.

6A. (1) Where the scheduled employment of any workman is terminated in contravention of the provisions of this Act in consequence of the closure by his employer of any trade, industry or business, the Commissioner may order such employer to pay to such workman on or before a specified date any sum of money as compensation as an alternative to the reinstatement of such workman and any gratuity or any other benefit payable to such workman by such employer.

Provisions relating to . termination of scheduled employment by closure of any trade, industry or business. [§4, Law 4 of 1976.]

(2) Where the Commissioner orders any sum of money to be paid to a workman under subsection (1) the Magistrate's Court having jurisdiction in the area where such workman is or was employed by his employer shall, if satisfied on the written petition of such workman that payment of such money has not been made within the time specified in that behalf by the Commissioner, make order that the amount of such money shall be paid by such employer to such workman and that such amount if not paid in compliance with the order, be recovered in like manner as a fine imposed by the Court, and the amount so recovered shall be paid to such workman.

(2) Any sum which an employer is liable to pay under paragraph (b) of subsection (1) may be recovered on the order of the court by which the employer was convicted as if it were a fine imposed on him by that court, and the amount recovered shall be paid to the workman.

9. Where any offence under this Act is committed by a body of persons, then,—

Special provisions in respect of offences committed by bodies of persons.

- (a) if the body of persons is a body corporate, every director and officer of that body corporate shall be deemed to be guilty of that offence ;
- (b) if the body of persons is a firm, every partner of the firm shall be deemed to be guilty of that offence ;
- (c) if body of persons is a trade union, every officer of that union shall be deemed to be guilty of that offence ; and
- (d) if the body of persons is a body, unincorporate other than a firm or a trade union, the president, manager, secretary and every officer of that body shall each be deemed to be guilty of that offence :

Failure to comply with the provisions of section 6 to be an offence.

7. (1) Where an employer fails to comply with the provisions of section 6, such employer 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 term of not less than six months and not exceeding two years.

(2) In any prosecution for an offence under subsection (1), the burden of proving that the employer has complied with the provisions of section 6 shall lie on the accused.

Additional punishment for an offence under section 7.

8. (1) On the conviction of an employer for an offence under section 7 in respect of any workman, such employer shall be liable—

- (a) to pay, in addition to any punishment that may be imposed on such employer under that section, a fine of fifty rupees for each day on which the failure is continued after conviction thereof.; and
- (b) to pay such workman the remuneration and such other benefits which would have been payable to him if he had been in employment on such day and on each day of the period commencing on the date on which he should have been employed according to the provisions of section 6 and ending on the date of conviction of such employer.

Provided, however, that no such person 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 diligene to prevent the commission of that offence.

10. Where a person (hereinafter in this section referred to as "the accused") is charged with an offence under this Act, the accused shall, upon complaint duly made by him in accordance with the provisions of section 136 of the Code of Criminal Procedure Act and on giving to the prosecution not less than three days' notice of his intention, be entitled, subject to the provisions of Chapter XIV of that Act, to have any other person whom he charges as the actual offender, brought before the court; and if, after the commission of the offence has been proved, the accused proves to the satisfaction of the court, that he has used due diligence to enforce the provisions, of this Act and that such other person has

Special defence open to a person charged with an offence under this Act.

committed the offence without his knowledge, consent or connivance, such other person shall be convicted of the offence and the accused shall be acquitted of the offence.

Administration of this Act vested in the Commissioner.

11. (1) The Commissioner shall be in charge of the general administration of this Act.

(2) The Commissioner may delegate to any officer of the Labour Department any power, function or duty conferred or imposed on him under his Act.

Powers of inspection, &c., of the Commissioner.

12. (1) The Commissioner shall have power—

- (a) to enter and inspect at all reasonable hours of the day or night any place in which workmen are employed in scheduled employments for the purpose of examining any register or record of wages, or of ascertaining whether the provisions of this Act are being complied with; or
- (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 or at the office of the Commissioner; or
- (c) to take copies of the whole or any part of any such register or record ; or
- (d) to interrogate any person whom he finds in such place and whom the Commissioner has reasonable cause to believe is an employer or a workman engaged or employed in any scheduled employment carried on in such place, or is an employer or a workman in the establishment or institution in such place ; or
- (e) to hold such inquiries as he may consider necessary for the purposes of this Act.

(2) The Commissioner shall, for the purposes of any inquiry under this Act, have all the powers of a District Court—

- (a) to summon and compel the attendance of witnesses;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to witnesses.

13. (1) The Commissioner may direct any employer to furnish to him before a date specified in the direction—

Powers of Commissioner to call for returns, &c.

- (a) a return relating to all his employees or any class or description of such employees as may be so specified and containing such particulars as the Commissioner may require for the purposes of this Act; or
- (b) such information or explanations as the Commissioner may require in respect of any particulars stated in any return furnished by such employer; or
- (c) a true copy of the whole or any part of any register or record maintained by such employer.

(2) A direction under subsection (1) may be given to any employer by notice in writing served on him.

14. Every person who—

General offences under this Act.

- (a) fails to furnish the means required by the Commissioner as necessary for any entry or inspection under this Act, or the exercise of his powers under section 12; or
- (b) hinders or molests the Commissioner in the exercise of the powers conferred by section 12 ; or
- (c) refuses to produce any register or record of wages, or give any information which the Commissioner requires him to produce or give under the powers conferred by section 12 ; or

- (d) makes or causes to be made any register or record of wages 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 12, knowing the same to be false ; or
- (e) furnishes any information to the Commissioner acting under the powers conferred by section 12, knowing the same to be false; or
- (f) (i) fails without cause, which in the opinion of the Commissioner is reasonable, to appear before the Commissioner at the time and place mentioned in any summons issued under subsection (2) of section 12 of this Act; or
 - (ii) refuses or fails without cause, which in the opinion of the Commissioner is reasonable, to produce and show to the Commissioner any document or other thing which is in his possession or power and which is in the opinion of the Commissioner necessary for arriving at the truth of the matters being inquired into by the Commissioner; or
 - (iii) refuses to be affirmed or sworn as a witness before the Commissioner; or
- (g) makes default in complying with any direction given by the Commissioner under section 13, or who, when called upon to furnish a return under the said section 13, knowingly makes or furnishes, or causes to be made or furnished, a false return or a return containing any false statement,

[§5, Law 4 of 1976.]

exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

15. All offences under this Act shall be triable summarily before a Magistrate.

Offences under this Act to be triable summarily before a Magistrate.

***17.** The proceedings at any inquiry held by the Commissioner for the purposes of this Act 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 arise at such inquiry.

Conduct of proceedings of inquiries held by the Commissioner for the purposes of this Act.

17A. In any proceedings at any inquiry held by the Commissioner, the employer or the workman may be represented by an officer of a trade union of which such employer or workman is a member.

Appearance before the Commissioner. [§7, Law 4 of 1976.]

17B. (1) Where any person—

(a) insults or intimidates the Commissioner during the progress of any inquiry conducted by such Commissioner;

Offence of contempt against or in disrespect of the Commissioner. [§7, Law 4 of 1976.]

(b) interferes with the lawful process of such Commissioner,

such person shall be deemed to commit the offence of contempt against or in disrespect of the authority of such Commissioner.

(2) Every offence of contempt committed against or in disrespect of the authority of such Commissioner shall be punishable by the Court of Appeal under Article 105 (3) of the Constitution.

(3) Every complaint of contempt committed against or in disrespect of the authority of such Commissioner shall be communicated to the Court of Appeal by letter signed by such Commissioner.

(4) The Court of Appeal may, upon receiving a communication referred to in subsection (3), take cognizance of and try in

shall be guilty of an offence and shall be liable on conviction thereof after summary trial before a Magistrate to a fine not

• Section 16 is repealed by Law No. 4 of 1976.

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a summary manner such offence of contempt committed against or in disrespect of the authority of such Commissioner.

(5) In any proceedings against any person for the offence of contempt committed against or in disrespect of the authority of such Commissioner, such Commissioner shall not be liable to be summoned as a witness by the first mentioned person but the Court of Appeal may, if it considers it necessary to do so, examine such Commissioner.

Service of notices.

18. Any notice which is required by this Act 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 abode or business of such person; or

(b) if it is sent to him by post in a registered letter addressed to the usual or last known place of abode or of business of such person.

Interpretation.

19. In this Act, unless the context otherwise requires,—

[§8, Law 4 of 1976.]

" collective agreement " has the same meaning as in the Industrial Disputes Act;

" Commissioner " means the person for the time being holding the office of the Commissioner of Labour;

" co-operative society " means a co-operative society registered or deemed to be registered as such under the Co-operative Societies Law;

" employer " means any person who employs, or on whose behalf any other person employs, any workman and includes a body of employers (whether such body is a firm, company, corporation, trade union or other body unincorporate), and any person who on behalf of any other person employs any workman, but does

not include any such other person or such body to whom, by virtue of the operation of the provisions of subsection (1) of section 3, the provisions of this Act, other than section 3, do not apply;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village 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 capital wholly or partly provided by the Government by way of grant, loan or other form;

" scheduled employment " means employment in— [§8, Law 4 of 1976.]

(a) any trade, in respect of which a notification has been published in the Gazette under subsection (2) of section 6 of the Wages Boards Ordinance of an order made under subsection (1) of that section and shall include the work of any worker referred to therein but excluded from the provisions of such order;

(b) every shop and every office within the meaning of the Shop and Office Employees (Regulation of Employment and Remuneration) Act; or

(c) every factory within the meaning of the Factories Ordinance;

" trade union " means any trade union (whether of employer or of workman) registered under the Trade Unions Ordinance; [§8, Law 4 of 1976.]

" worker " has the same meaning as in the Wages Boards Ordinance ; [§8, Law 4 of 1976.]

" workman " has the same meaning as in the Industrial Disputes Act, but does not include a workman to

• Repealed and replaced by the Companies Act, No. 17 of 1982.

whom, by virtue of the operation of the provisions of subsection (1) of section 3, the provisions of this Act, other than section 3, do not apply.

law, the provisions of this Act shall prevail over the provisions of such other written law.

The provisions of this Act to prevail over other written law.

20. In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written

21. The provisions of this Act shall be deemed to have come into operation on May 21, 1971.

Date of operation of Act.

Act.

**TRANSFER OF POWERS
(ANURADHAPURA PRESERVATION BOARD)**

[Cap. 581]

CHAPTER 581

**TRANSFER OF POWERS
(ANURADHAPURA PRESERVATION BOARD)**

Law A LAW TO PROVIDE FOR THE TRANSFER OF THE POWERS OF THE ANURADHAPURA
No. 25 of 1974. PRESERVATION BOARD TO CERTAIN LOCAL AUTHORITIES, AND TO MAKE
Act PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.
No. 47 of 1979.

[1st February, 1975.]

Short title. **1.** This Law may be cited as the Transfer of Powers (Anuradhapura Preservation Board) Law.

under paragraph (i) and any Village Council under paragraph (ii), to be part or parts of the area of any local authority as may be determined by the Minister.

Local authorities to be constituted for the Area of Authority of the Anuradhapura Preservation Board.

- 2.** (1) The Minister may—
- (i) by Order made under section 2 of the Urban Councils Ordinance and published in the Gazette, declare any area forming part of the Area of Authority of the Anuradhapura Preservation Board (hereinafter referred to as the " Board ") to be a town for the purposes of that Ordinance and assign to the Urban Council to be constituted for that area the name and designation "Anuradhapura Urban Council" (hereinafter referred to as the " Urban Council ");
- (ii) by Order made under section 3 of the Village Councils Ordinance and published in the Gazette declare certain areas from and out of the remaining part of the Area of Authority of the Board after the constitution of the Urban Council under paragraph (i), to be village areas for the purposes of that Ordinance;
- (iii) by Order made under the appropriate enactment and published in the Gazette, declare the balance part of the Area of Authority of the Board after the constitution of the Urban Council

(2) Subject to the provisions of this Law, the provisions of the Urban Councils Ordinance shall apply in respect of the Urban Council constituted under paragraph (i) of subsection (1), the provisions of the Village Councils Ordinance shall apply in respect of any Village Council constituted under paragraph (ii) of subsection (1) and the provisions of the appropriate enactment shall apply in respect of the balance part referred to in paragraph (iii) of subsection (1).

3. (1) Notwithstanding the provisions of the Urban Councils Ordinance, the Minister may by Order published in the Gazette, appoint a Special Commissioner to administer the affairs of the Urban Council.

Appointment of Special Commissioner. [§2.47 of 1979.]

(2) Where the Minister appoints any Special Commissioner under subsection (1), to administer the affairs of the Urban Council, all the property and the rights under contracts and all the powers vested in the Urban Council shall be deemed to be vested in such Special Commissioner and all the duties and liabilities of the Urban Council shall be transferred to and shall be discharged by such Special Commissioner unless the Minister otherwise directs.

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(3) At any time after the appointment of a Special Commissioner under subsection (1) to administer the affairs of the Urban Council the Minister may by Order published in the Gazette—

- (a) direct that the first general election in accordance with the provisions of the Local Authorities Elections Ordinance shall be held for the election of the Chairman, Vice-Chairman and other members of the Urban Council; and
- (b) appoint the date on which the term of office of the Chairman, Vice-Chairman and other members elected at such first general election commence.

(4) The Special Commissioner appointed under subsection (1) shall on the date of commencement of the term of office of the Chairman, Vice-Chairman and other members of the Urban Council, cease to hold such office and to administer the affairs of the Urban Council and all the property and the rights under contracts and all the powers of the Urban Council deemed to be vested in such Special Commissioner, and all the duties and liabilities of Urban Council, transferred to such Special Commissioner under subsection (2), shall be vested in, transferred to and discharged by the Urban Council.

4. (1) Notwithstanding the provisions of the Village Councils Ordinance, the Minister may by Order published in the Gazette, appoint an Administrator to administer the affairs of the Village Council.

(2) Where the Minister appoints any Administrator under subsection (1), to administer the affairs of a Village Council, all the property and the rights under contracts and all the powers vested in a Village Council shall be deemed to be vested in such Administrator and all the duties and liabilities of a Village Council shall be transferred to and shall be discharged by such Administrator unless the Minister otherwise directs.

*Repealed by Law No. 25 of 1974.

(3) At any time after the appointment of an Administrator under subsection (1), to administer the affairs of a Village Council, the Minister may by Order published in the Gazette—

- (a) direct that the first general election in accordance with the provisions of the Local Authorities Elections Ordinance shall be held for the election of the Chairman, Vice-Chairman and the other members of that Village Council; and
- (b) appoint the date on which the term of office of each member elected at such first general election shall commence.

(4) The Administrator appointed under subsection (1) shall on the date of commencement of the term of office of the Chairman, Vice-Chairman and other members of the Village Council, cease to hold such office and to administer the affairs of the Village Council and all the property and the rights under contracts and all the powers of the Village Council deemed to be vested in such Administrator and all the duties and liabilities of the Village Council transferred to such Administrator under subsection (2) shall be vested in, transferred to, and discharged by the Village Council.

5. With effect from the appointed date—

- (a) all the immovable property—
 - (i) vested in the Board by section 34 of the Anuradhapura Preservation Board Act* (hereinafter referred to as the " Board Act ");
 - (ii) acquired for the Board under the Land Acquisition Act in accordance with the provisions of section 15 of the Board Act;
 - (iii) vested in the Board by section 17 of the Board Act;

[§ 2, 47 of 1979.]

[§ 3, 47 of 1979.]

[§ 2, 47 of 1979.]

[§ 3, 47 of 1979.]

Appointment of administrator. [§ 3, 47 of 1979.]

Transfer and vesting of property, rights, duties, &c., of the Board in the local authorities. [§ 4, 47 of 1979.]

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- (iv) purchased by the Board ; and
- (v) acquired or purchased by the Special Commissioner after the dissolution of the former Anuradhapura Urban Council,

other than—

- (a) any such property in the possession or charge of any Government Department, immediately prior to the date of the constitution of the Urban Council; and
- (b) the power house belonging to such Board, situated outside the administrative limits of the Urban Council,

is hereby transferred to and vested in the local authority within whose administrative limits such property is situated and any such property vested in such local authority which is immovable property of the State vested in the Board subject to any conditions shall be held by that local authority subject to those conditions;

- (b) all the rights, debts, liabilities and obligations of the Board on that day, in so far as they relate to each local authority, are hereby transferred to that local authority ;
- (c) the installations, equipment and other property of the Board installed, maintained and operated within the Area of Authority of the Board for the purpose of generating, transmitting and supplying energy and the power house belonging to such Board situated outside the administrative limits of the Urban Council are hereby transferred to and vested in the Urban Council, and
- (d) all contracts, deeds, bonds, agreements and other instruments which relate wholly or partly to

each local authority and which subsist or have effect on that day and to which the Board is a party, other than any contract of employment with any officer or servant of such Board or any lease bond referred to in paragraph (a), shall, to the extent to which they relate to each such local authority, have effect against or in favour of such local authority as fully and effectively as if, instead of the Board, the local authority concerned had been a party thereto.

- 6. (a) All State lands, with or without buildings, that had been used by the Board for any of its purposes ; and
- (b) all shops, markets and residential houses which were constructed by the Government, but were administered by the Board,

Other property vested in local authority, [§ 5, 47 of 1979.]

on the date immediately before the date of the constitution of the Urban Council shall with effect from the date of such constitution be deemed to have vested in the local authority within whose administrative limits such property is situated.

6A. With effect from the 19th day of July, 1979, all the property of the following classes, namely—

- (a) waste land and open spaces ;
- (b) stone, cabook, and gravel quarries ;
- (c) public lakes and streams;
- (d) public tanks, ponds and channels;
- (e) state lands, whether with or without buildings; and
- (f) public parks and gardens and all erections and structures therein,

Certain property formerly vested in the local authority to vest in the State. [§ 8, 47 of 1979.]

vested in the local authority within whose administrative limits such property is situated, other than all the property deemed to have vested in such local authority by section 6, is hereby vested in the State.

[§ 4, 47 of 1979.]

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Vesting not to prejudice right of State, &c.

7. Nothing in section 5 or 6 shall be deemed—

- (i) to affect or prejudice any right or title of the State to any such immovable property, or the right of the State at any time to resume or dispose of such property for public purposes; or
- (ii) to affect or prejudice any right, title or interest which any military authority, in which lands are vested on behalf of the State, has or may have in any such property; or
- (iii) to prevent any authority from surrendering to the State at any time any such immovable property.

Pending suits and appeals. &c., to be continued by or against the local authorities.

8. With effect from the appointed date, all suits, appeals or other legal proceedings instituted by, or against, the Board in respect of—

- (i) any immovable property transferred to and vested in each such local authority by paragraph (a) of section 5 and section 6 ;
- (ii) any right, debt, liability or obligation of such Board transferred to each such local authority by paragraph (b) of section 5 ;
- (iii) the installations, equipment and other property transferred to and vested in the Urban Council by paragraph (c) of section 5 ; and
- (iv) any contract, deed, bond, agreement or other instrument which has effect against or in favour of each such local authority by virtue of the operation of paragraph (d) of section 5,

and pending on that day shall not abate or be discontinued or be in any way prejudicially affected by reason of the operation of the provisions of paragraphs (a), (b), (c) and (d) of section 5 and section 6, and accordingly be continued and enforced by, or against, each such local authority concerned.

9. (1) Every by-law in force in any part of the Area of Authority of the Board coming within the administrative limits of—

- (a) the Urban Council constituted under paragraph (i) of subsection (1) of section 2; or
- (b) any Village Council constituted under paragraph (ii) of subsection (1) of section 2,

shall continue in force in such area, as though it were a by-law made by the Urban Council under the Urban Councils Ordinance or such Village Council under the Village Councils Ordinance and may be amended or rescinded by by-law made by the Urban Council under the Urban Councils Ordinance or by such Village Council under the Village Councils Ordinance, as the case may be.

(2) Every licence issued by the Board and in force in any part of the Area of Authority of the Board coming within the administrative limits of—

- (a) the Urban Council; or
- (b) any Village Council,

shall continue in force in such area as though such licence was issued by the Urban Council under the Urban Councils Ordinance or by such Village Council under the Village Councils Ordinance.

(3) Every reference in any such by-law or licence to the Board shall be deemed to be a reference to the Urban Council or Village Council, as the case may be, and every reference to the Chairman of the Board shall be deemed to be a reference to the Special Commissioner of the Urban Council or the Administrator of the respective Village Council or the Chairman of the Urban Council or the respective Village Council, as the case may be.

10. (1) All officers and servants of the Board shall as far as possible be absorbed into the public service. Local Government Service or to the service of any local authority.

By-laws and licences in force in Area of Authority to continue in force.

Officers and servants of the Board.

TRANSFER OF POWERS
(ANURADHAPURA PRESERVATION BOARD) [Cap. 581]

(2) Every officer and servant referred to in subsection (1) shall hold office as nearly as practicable by the same tenure and upon the same terms and conditions as under the said Board, and while performing the same or corresponding duties shall, as nearly as practicable, receive no less salary or remuneration or allowances and be entitled to receive no less pension and gratuity, if any, than he would have been entitled to receive from the said Board.

(3) Every officer or servant of the Board who cannot be absorbed into any service referred to in subsection (1) or who does not wish to continue in any such service shall be deemed to have retired on such terms as may be determined by the Minister.

Power to transfer money and any movable property of the Board.

11. The Minister shall transfer to each local authority to which this Law applies—

- (a) from the funds of the Board such sum of money which he may determine; and
- (b) any movable property of the Board-

Land revested in the State.

12. (1) All State lands situated in the Area of Authority of the Board vested in such Board on the day immediately prior to the appointed date, and not vested in each such local authority by this Law, are with effect from that date hereby vested in the State.

[§ 6. 47 of 1979.]

(2) Every lease or alienation of any State land, whether with or without buildings thereon, within the Area of Authority of the Board (other than any lease or alienation of State lands, with or without buildings thereon vested in the local authority under this Law) granted by the Board shall be deemed to be lease or alienation granted by the Government Agent of the administrative district in which such land is situated, and may be enforced or acted upon as fully and effectually as if such Government Agent had been a party to such lease or alienation.

Regulations.

13. (1) The Minister may make all such regulations as may seem to him to be necessary for carrying out the provisions of this Law or giving effect to the principles

thereof, including regulations for all matters for or in respect of which regulations are authorized or required to be made.

(2) No regulation made by the Minister under subsection (1) shall have effect until it has been approved by Parliament, and notification of such approval has been published in the Gazette.

***15.** In this Law, unless the context Interpretation. otherwise requires—

" Administrator " has the same meaning as " public officer " in section 54 of the Village Councils Ordinance;

" alienation " includes— [§7.47 of 1979.]

- (1) any conveyance, transfer, grant or any other disposition whatsoever; and
- (2) the transfer of possession under any purported, proposed or intended conveyance, transfer, grant or any other disposition whatsoever;

"appointed date" means the 1st day of February, 1975;

" appropriate enactment " means—

- (i) in relation to a Municipal Council, the Municipal Councils Ordinance,
- (ii) in relation to an Urban Council, the Urban Councils Ordinance,
- (iii) in relation to a Town Council, the Town Councils Ordinance, and
- (iv) in relation to a Village Council, the Village Councils Ordinance;

" Area of Authority " has the same meaning as in the Anuradhapura Preservation Board Act;

* Section 14 (repealing the Anuradhapura Preservation Board Act, No. 32 of 1961, and the Anuradhapura Urban Council (Special Provisions) Act, No. 28 of 1969,) is omitted.

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" by-laws" include rules, regulations, orders and notifications;

subsequently dissolved by Order made and published under section 184 of that Ordinance ; and

[§ 7,47 of 1979.]

" former Anuradhapura Urban Council " means the Urban Council which was constituted for the town of Anuradhapura under the Urban Councils Ordinance, and was

" local authority" means a Municipal Council, Urban Council, Town Council or Village Council.

CHAPTER 74

THESAWALAMAI PRE-EMPTION

Ordinance
No. 59 of 1947.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW OF PRE-EMPTION RELATING TO LANDS AFFECTED BY THE " THESAWALAMAI ".

[1st July. 1948.]

Short title.

1. This Ordinance may be cited as the *Thesawalamai* Pre-emption Ordinance.

Restrictions on the right of pre-emption.

2. (I) When any immovable property subject to the *Thesawalamai* is to be sold, the right of pre-emption over such property, that is to say, the right in preference to all other persons whomsoever to buy, the property for the price proposed or at the market value, shall be restricted to the following persons or classes of persons :—

- (a) the persons who are co-owners with the intending vendor of the property which is to be sold, and
- (b) the persons who in the event of the intestacy of the intending vendor will be his heirs.

(2) For the purposes of this Ordinance, the term " heirs " means all descendants, ascendants and collaterals up to the third degree of succession, and includes—

- (a) children, grandchildren and great-grandchildren;
- (b) parents, grandparents on both the paternal and the maternal sides and great-grandparents on all sides ;
- (c) brothers and sisters whether of the full or of the half-blood ;
- (d) uncles and aunts, and nephews and nieces, both on the paternal and the maternal sides, and whether of the full or of the half-blood.

Mode of exercising right of pre-emption,

3. The right of pre-emption shall not be exercised save in accordance with the provisions of this Ordinance.

4. The right of pre-emption shall not be exercised except in a Case where the property which is to be sold consists of an undivided share or interest in immovable property, and shall in no case be permitted where such property is held in sole ownership by the intending vendor.

Cases in which the right is permitted.

5. (1) Notice of an intention or proposal to sell to any person not entitled to the right of pre-emption under this Ordinance any property to which section 4 applies shall be signed by the intending vendor before a notary public. The notice shall be attested in triplicate, but the registration of it shall not be obligatory.

Mode of publication of notice.

(2) The notice shall set out the actual price offered by the prospective purchaser, but it shall not be necessary to disclose in addition the name of the prospective purchaser.

(3) A certified copy of the notice shall be forwarded forthwith by the intending vendor to the Mayor or Chairman, as the case may be, of the local authority within whose administrative limits the land is situated.

(4) The Mayor or Chairman to whom the certified copy is forwarded shall record the particulars set out therein in a register to be kept by him for that purpose, and shall cause such certified copy to be posted immediately on the notice-board of his office.

(5) A certificate under the hand of the officer that the notice has been duly posted on his notice-board shall be conclusive evidence of the publication of the notice for the purposes of this Ordinance.

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Time-limit for exercising the right by private treaty.

6. (1) Within three weeks of the date of publication of a notice under section 5, any person to whom the right of pre-emption is reserved by this Ordinance, may either tender the amount stated in such notice and buy the property from the intending vendor, or enter into an agreement to buy it.

(2) Any conveyance of the property executed by the intending vendor within the period of three weeks specified in subsection (1), in completion of a sale of which he has given notice under section 5 or of a sale to any person other than one to whom the right of pre-emption is reserved by this Ordinance, shall be null and void and of no effect whatsoever in law.

Proceedings for enforcing the right within the time-limit.

7. (1) If a tender made under section 6 is not accepted by the intending vendor, and if the land remains unsold, the person making the tender may, on condition that he has first deposited in court the amount stated in the notice and tendered by him to the intending vendor, apply to court within the period specified in section 6, by way of petition duly stamped and verified by affidavit, for an order directing the intending vendor to sell the land to the applicant.

(2) Where the applicant alleges in his petition and proves by his affidavit, that the amount stated in the notice by the intending vendor is fictitious, the deposit of such smaller sum as may be alleged in the petition to be the reasonable price or the market value of the land, shall be deemed to be sufficient compliance with the condition in subsection (1) as to the deposit of money in court.

(3) In the event of any smaller sum being deposited under subsection (2), the court shall, without prejudice to such issues relating to the value of the land as may have to be dealt with at the inquiry into the petition, hold a preliminary inquiry as to the sufficiency of the sum deposited by the applicant, hearing such evidence as it may deem necessary for this purpose.

(4) Any order made by the court after an inquiry under subsection (3) shall be final and conclusive; and where such order directs any further sum to be deposited,

compliance with the order shall be a condition precedent to the issue of any order *nisi*, interlocutory order, notice, or process, in the matter of the petition.

(5) Every petition under this section shall be disposed of according to the rules of summary procedure laid down in Chapter XXIV of the Civil Procedure Code; and in the event of the non-appearance or other default of the intending vendor, the court may, if after due inquiry it is satisfied that the application should be allowed, execute a conveyance of the property to the applicant, and the provisions of section 333 of that Code shall *mutatis mutandis* apply to any conveyance so executed.

(6) Any conveyance of the property, in completion of the proposed sale, executed by the intending vendor after the service on him of an order *nisi* or interlocutory order and before the final order is made in any proceedings taken under this section, shall be null and void and of no effect whatsoever in law.

8. (1) After the completion of a sale of which notice has been given under section 5 or of any sale of which notice has not been given under that section, the right of pre-emption shall not be enforced except by way of regular action, to which the purchaser shall also be made a party.

Remedy after the completion of the proposed sale.

(2) An action to enforce the right of pre-emption under subsection (1) may be instituted on any of the following grounds:—

- (i) that the notice required by section 5 was not given or that the notice given was irregular or defective ;
- (ii) that the price set out in the notice was fictitious or not fixed in good faith;
- (iii) that at the time of, and for three weeks after, the publication of the notice, the person seeking to enforce the right was absent from the district and that within a reasonable time after the lapse of the said period of three weeks and before the completion of the

THESA WALAMAI PRE-EMPTION

proposed sale, he tendered to the intending vendor the purchase amount stated in the notice, and that such tender was not accepted.

Time-limit to action for enforcing right.

9. No action to enforce a right of pre-emption on the ground that the notice required by section 5 was not given or that the notice given was irregular or defective shall be instituted or maintained—

- (1) if the actual purchaser of the land is also a person who at the time of the purchase had the right of pre-emption over the property purchased by him; or
- (2) if more than one year has elapsed from the date of the registration of the purchaser's deed of transfer.

Registration of *lis pendens* to be compulsory.

10. No precept or order for the service of notice or summons shall be issued in any proceedings or action for enforcing a right of pre-emption, until proof is furnished to the court of the registration of the proceedings or action as a *lis pendens* in accordance with the provisions of the Registration of Documents Ordinance.

Deposit of purchase money as proof of plaintiffs bona fides.

11. At any time after the institution of an action to enforce a right of pre-emption, the court may in its discretion order the plaintiff to deposit the purchase amount set out in the notice given under section 5 ; and if the plaintiff makes default in depositing the amount within such period, or further periods not exceeding three months in the aggregate, as the court may allow, his action shall be struck off the roll of pending cases.

12. No person seeking to enforce a right of pre-emption by way of petition or by regular action, shall be permitted to take over the property for a less amount than that stated in the notice given under section 5 or recited as the consideration in the deed of transfer executed by the vendor:

The minimum price payable by the plaintiff.

Provided, however, that if the amount so stated or recited is proved to the satisfaction of the court to be fictitious, the court may ascertain the actual price paid and the market value, and allow the property to be pre-empted by the plaintiff for the price actually paid or at the market value, whichever of these is the larger.

13. All co-owners and heirs within the meaning of section 3 shall be deemed to have an equal right to pre-empt any share or interest in property sold without due publication of the notice required by section 5, and there shall be no preference or precedence among them;

Equality of rights of all persons entitled to pre-empt;

Provided, however, that in the event of any competition among such co-owners and heirs, the court may accept the highest offer made by any of them, if such offer is also larger than the actual price paid or the market value, whichever of these is the larger.

and auction in case of competition among them.

14. So much of the *Thesawalamai* and Repeal of the Ordinance No. 4 of 1895, entitled " An Ordinance relating to the publication of intended sales or other alienations of Immovable Property affected by the *Thesawalamai* of the Northern Province of Ceylon" as is inconsistent with the provisions of this Ordinance, is hereby repealed.

CHAPTER 95

TRUST RECEIPTS

Ordinance
No. 12 of 1947.

AN ORDINANCE TO PROVIDE FOR THE EXECUTION OF TRUST RECEIPTS IN CONFORMITY WITH PRESCRIBED REQUIREMENTS AND FOR THE REGISTRATION AND EFFECT OF TRUST RECEIPTS SO EXECUTED.

[1st May. 1947.]

Short title

1. This Ordinance may be cited as the Trust Receipts Ordinance.

Trust receipt
for imported
goods.

2. (1) Where any person, being the consignee of any goods imported into Sri Lanka or a person at whose instance any goods are imported into Sri Lanka, is not entitled, under the terms of any contract relating to the goods or to payment therefor or otherwise, to obtain possession of the goods or of the documents of title relating thereto, except upon payment of a sum of money or upon an undertaking to hold the goods in trust, and such person or any other person—

(a) obtains possession of such goods or documents upon the execution, in favour of any approved credit agency by which the goods or documents are actually released, of a document in respect of the goods which complies with the provisions of subsection (2) or subsection (3) (which document is hereinafter referred to as " a trust receipt for imported goods "); or

(b) obtains a loan from any approved credit agency for the purpose of making the payment necessary to enable him to obtain possession of such goods, or documents, upon the execution in favour of such agency of a document in respect of those goods which complies with the provisions of subsection (2) or subsection (3) (which document is hereinafter referred to as " a trust receipt for imported goods"), the provisions of section 4 shall be applicable in relation to that trust receipt and the goods to which it relates.

(2) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1) must contain the following undertakings on the part of that person in respect of the goods to which it relates :—

- (i) an undertaking to hold those goods in trust for the agency in favour of which it is executed, to mark the goods or packages or cases containing them in a specified manner, and to keep the goods in specified premises until the sale thereof;
- (ii) an undertaking to pay to the agency from time to time as received, the proceeds of the sale of those goods or a specified proportion of such proceeds;
- (iii) an undertaking not to sell those goods or any of those goods except for cash;
- (iv) an undertaking to deliver such of those goods as may for the time being be unsold, to, or to the order of, the agency upon demand made in writing in that behalf;
- (v) an undertaking to permit the agency,
 - without prior notice, from time to time to enter and inspect the premises in which those goods are kept and to take stock of such of those goods as may be in the premises.

(3) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1) must contain the following undertaking on the part of that person in respect of the goods to which it relates, that is to say—an undertaking to hold the goods in trust for the agency in favour of which it is executed, and to store them in a specified warehouse in the name of the agency.

(4) Nothing in subsection (2) or subsection (3) shall be deemed to prevent the inclusion in the document of any undertakings, conditions or stipulations in addition to the undertaking specified in either of those subsections.

Trust receipt for goods for exportation.

3. (1) Where, upon a statement made to any approved credit agency by any person, that he proposes to purchase goods for the purpose of exportation from Sri Lanka, such person, for the purpose of making payment for the goods and of meeting expenditure in connection with the exportation and preparation for exportation thereof, obtains from such agency advances by way of loan, overdraft or otherwise, upon the execution in favour of such agency, of a document which complies with the provisions of subsection (2) (which document is hereinafter referred to as "a trust receipt for goods for exportation"), the provisions of section 4 shall be applicable in relation to that trust receipt and the goods to which it relates.

(2) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1) must contain the following undertakings on the part of that person in respect of the goods to which the document relates:—

- (i) an undertaking to hold those goods in trust for the agency in favour of which it is executed, to mark the goods or the packages or cases containing them in a specified manner, and to keep the goods in specified premises until the exportation thereof ;
- (ii) an undertaking, upon the exportation from Sri Lanka of those goods, to

deliver to the agency the bills of lading and other shipping documents relating to such goods;

- (iii) an undertaking not to sell those goods to any other person in Sri Lanka except with the consent of the agency, and in the event of any such sale with such consent to deliver the proceeds of sale from time to time as received to the agency;
- (iv) an undertaking, in the event of those goods not being exported from Sri Lanka within a specified period, to deliver the goods to, or to the order of, the agency upon demand made in writing in that behalf;
- (v) an undertaking to permit the agency, without prior notice, from time to time to enter and inspect the premises in which those goods are kept and to take stock of such of those goods as may be in the premises.

(3) Nothing in subsection (2) shall be deemed to prevent the inclusion in the document of any undertakings, conditions or stipulations in addition to the undertakings specified in that subsection.

4. (1) Where a trust receipt for imported goods, or a trust receipt for goods for exportation, has been executed by any person in conformity with the provisions of section 2 or section 3 and the trust receipt is registered under the Registration of Documents Ordinance as a bill of sale affecting the goods to which it relates, the following provisions shall apply during such time as any money stated in the trust receipt to be due or to become payable thereunder to the agency remain due and unpaid :—

- (i) The agency shall, in the event of the seizure of the goods by any other person in execution of any decree of any court, be entitled, upon application made to that court in the action in the course of which the seizure was effected, to an order directing that the goods shall be delivered to the agency and shall be sold, either by public auction by an auctioneer selected by the agency

Legal effect of trust receipts to which this Ordinance applies.

and approved by the court, or in such manner as the court may direct, and in accordance with such directions as may be issued by the court."

Upon the sale of such goods the agency shall be entitled to retain out of the proceeds of sale the amount due under the trust receipt, and the balance, if any, of the proceeds of sale shall be paid into court and be deemed to be proceeds of the sale of the goods in execution of the decree under which they were seized.

- (ii) The agency shall, in the event of the insolvency of the person by whom the trust receipt is executed, be entitled to obtain from the court in which the proceedings upon such insolvency are pending, an order directing that the goods to which the trust receipt relates shall be sold either by public auction by an auctioneer selected by the agency and approved by the court, or in such other manner as the court may direct, and in accordance with such directions as may be issued by the court.

Upon the sale of such goods, the agency shall be entitled to retain out of the proceeds of sale the amount due under the trust receipt, and the balance, if any, of the proceeds of sale shall be paid into court to the credit of the assignee of the estate of the insolvent.

- (iii) Where any goods are delivered to the agency in compliance with any undertaking referred to in paragraph (iv) of section 2 (2) or in paragraph (iv) of section 3 (2), the agency may sell the goods so delivered, whether after removal thereof, or at the premises in which the goods are kept if the person executing the trust receipt consents to a sale at such premises.

The agency shall be entitled to retain, out of the proceeds of sale

of the goods, the amount due to it under the trust receipt, and the balance, if any, shall be paid to the person by whom the trust receipt was executed.

- (iv) The person by whom the trust receipt was executed shall, if he commits a breach or fails to comply with any Undertaking referred to in subsection (2) or subsection (3) of section 2, or in subsection (2) of section 3, as the case may be, being an undertaking contained in the trust receipt, be guilty of an offence and shall, on conviction be liable to imprisonment of either description for a term not exceeding three months or to a fine not exceeding five hundred rupees or to both such imprisonment and fine.

(2) The provisions of this Ordinance relating to the payment to, or the recovery by, an approved credit agency, of the amount due under a trust receipt shall be in addition to, and not in substitution or derogation of, the provisions of any written or other law under which any right or remedy is available to the agency for the purpose of the recovery of that amount, or where any part of that amount has already been paid or recovered, of the balance remaining due.

5. (1) In this Ordinance, "approved credit agency" means— Approved credit agencies;

- (a) any banking company as defined in section 333 of the Companies Ordinance*, which is declared by the Director of Commerce, by Notification published in the Gazette, to be an approved credit agency for the purposes of this Ordinance;
- (b) the State Mortgage and Investment Bank, the Loan Board, the National Savings Bank, and the Local Loans and Development Commissioners; or
- (c) any other company, firm, institution or individual for the time being declared by the Director of

* Repealed and replaced by the Companies Act, No. 17 of 1982.

TRUST RECEIPTS

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Commerce, by Notification published in the Gazette, to be an approved credit agency for the purposes of this Ordinance.

institution mentioned in paragraph *(b)* of subsection (1) to make loans or afford any credit facilities in consideration of the execution of trust receipts, if the power to make such loans or to afford such facilities is not conferred on such institution by the Ordinance providing for the establishment, powers and functions of such institution.

(2) Nothing in this Ordinance shall be deemed or construed to authorize any

CHAPTER 246

TEMPORARY RESIDENCE TAX

Act
No. 15 of 1971.

AN ACT TO MAKE PROVISION FOR THE LEVY AND RECOVERY OF A TAX COMPUTED WITH REFERENCE TO THE STAY IN SRI LANKA OF CERTAIN PERSONS WHO ARE NOT CITIZENS OF SRI LANKA, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[17th March. 1971.]

Short title.

1. This Act may be cited as the Temporary Residence Tax Act.

(ii) an additional five hundred rupees in respect of each subsequent period exceeding three months but not exceeding twelve months, and

Charge of the tax.

2. (1) Subject to the other provisions of this Act, there shall be charged from every person—

- (a) who is not a citizen of Sri Lanka; and
- (b) who, after the relevant date, remains in Sri Lanka—

(b) if the *visa* granted to him is for a period not exceeding twelve months, be five hundred rupees in respect of that period;

- (i) for a period exceeding three months under the authority of a *visa* granted to him, or
- (ii) for a period exceeding three months after the expiration of the period for which he is authorized to remain in Sri Lanka by a *visa* granted to him,

(B) in respect of any person referred to in sub-paragraph (ii) of paragraph (b) of subsection (1) shall—

a tax (hereafter in this Act referred to as "the tax"), for the period of his stay in Sri Lanka computed at the rate set out in subsection (2).

(a) if the period for which he is authorized to remain in Sri Lanka under the *visa* granted to him expired before the relevant date and he remains in Sri Lanka on or after April 2, 1971, be five hundred rupees for the period commencing on the relevant date and ending on April 2, 1971, and an additional five hundred rupees for each subsequent period exceeding three months but not exceeding twelve months;

(2) The rate of tax—

(A) in the case of a person referred to in sub-paragraph (i) of paragraph (b) of subsection (1), shall—

- (a) if the *visa* granted to him is for a period exceeding twelve months, be—
 - (i) five hundred rupees in respect of the first twelve months, and

(b) if the period for which he is authorized to remain in Sri Lanka expired on or after the relevant date but before the date of commencement of this Act or expires on or after the date of commencement of

this Act and he remains in Sri Lanka—

(i) for a period exceeding twelve months, be five hundred rupees for the first twelve months, and an additional five hundred rupees for each subsequent period exceeding three months but not exceeding twelve months, or

(ii) for a period exceeding three months but not exceeding twelve months, be five hundred rupees in respect of that period.

(3) Any person who under subsection (1) is liable to pay the tax is hereafter in this Act referred to as a "person subject to the tax".

Exemptions from the tax.

3. (1) The following persons shall be exempt from the tax :—

(i) any person referred to in paragraph (a), paragraph (c), paragraph (d) or paragraph (e) of section 2 (1) of the principal enactment and the spouse and every dependent child, parent, brother or sister of any person referred to in the aforesaid paragraphs, and every member of the official staff of any person referred to in the aforesaid paragraphs;

(ii) any person referred to in paragraph (b) of section 2 (1) of the principal enactment and—

(a) every member of the official staff of that person ;

(b) the spouse and every dependent child, parent, brother or sister of that person and of every member of his official staff;

(c) every such person in the domestic establishment of the person aforesaid or of every member of his official staff as is the holder of a valid passport

issued by the Government of the country which duly accredited him to the Government of Sri Lanka.

(iii) any person who has entered, or enters, or is under an agreement to enter, the service of the Government of Sri Lanka or of any local authority or of any corporation, and the spouse and every dependent child of such person;

(iv) any person who is an expert, adviser, technician or official who is exempt from the payment of income tax under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979);

(v) any person who is in the service of any undertaking in Sri Lanka which is commenced after the date of commencement of this Act and in respect of which a certificate is issued by the Secretary to the Treasury or an officer authorized by him to the effect that foreign capital is invested in such undertaking with the approval of the Government of Sri Lanka;

(vi) any person who has not attained the age of sixteen years;

(vii) any person who is a full time student in any educational institution in Sri Lanka recognized by the Government of Sri Lanka;

(viii) any person who is a member of the crew of a ship in the territorial waters* of Sri Lanka;

(ix) any class or description of persons which, or any person who, is exempted from the provisions of this Act by Order made by the Minister and published in the Gazette.

(2) Any Order of exemption under paragraph (ix) of subsection (1) may be given retroactive effect as from any day not earlier than the relevant date,

* See also sections 2 and 11 of the Maritime Zones Law.

notwithstanding that such day is a day prior to the date of the publication of such Order in the Gazette.

(3) In this section—

"corporation" means a corporation established under the Government-Sponsored Corporations Act, or under the State Industrial Corporations Act, or any corporation specified in the Schedule to this Act, and

"local authority " includes any Municipal Council, Urban Council, Town Council or Village Council.

Liability to pay the tax.

4. (1) The tax shall—

(A) in the case of a person who is the holder of a *visa* which was granted to him before the date of commencement of this Act and which expires later than three months but not later than one year after the relevant date, be paid within one month after the date of commencement of this Act;

(B) in the case of a person who is the holder of a *visa* which was granted before the date of commencement of this Act and which expires later than one year after the relevant date—

(a) in respect of the period of twelve months commencing on the relevant date, be paid within one month after the date of commencement of this Act, and

(b) in respect of each subsequent period, exceeding three months and not exceeding twelve months of that *visa*, be paid within one month after the date of commencement of each such period;

(C) in the case of a person who is the holder of a *visa* which is granted to him after the date of commencement of this Act—

(a) if the period for which he is authorized to remain in

Sri Lanka by that *visa* does not exceed one year, be paid on the date of the grant of that *visa*, and

(b) if the period for which he is authorized to remain in Sri Lanka by that *visa* exceeds one year—

(i) in respect of the first twelve months of his stay in Sri Lanka, be paid on the date of the grant of that *visa*, and

(ii) in respect of each subsequent period, exceeding three months and not exceeding twelve months, of that *visa*, be paid within one month after the date of commencement of each such period; and

(D) in the case of any person who remains in Sri Lanka after the expiration of the period for which he is authorized to remain in Sri Lanka by the *visa* granted to him, be paid immediately on demand made to him by or on behalf of the Controller,

and such person shall be liable to pay the tax to the Controller.

(2) Notwithstanding the provisions of subsection (1), any person who is subject to the tax may apply to the Controller for permission to pay the tax in instalments and, on receipt of such an application, the Controller may, if he is satisfied that the applicant is an employee in any trade in respect of which a Wages Board has been set up in accordance with the provisions of the Wages Boards Ordinance, permit the applicant to pay the tax in such instalments as the Controller may determine.

(3) The Controller may, on the application of any person who is subject to the tax, grant an extension of time, not

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exceeding three months, for the payment of the tax if such person has, within three months before the date on which the tax falls due, paid in accordance with the provisions of subsection (1) the tax which he was earlier liable to pay.

(4) Where under the provisions of subsection (1) the tax is paid by any person upon the grant, after the date of commencement of this Act, of a *visa* to him and the period for which he is authorized to remain in Sri Lanka by that *visa* is less than one year, that person shall not be liable to pay the tax upon the extension of the period of such *visa* if the aggregate of the periods for which he is authorized to remain in Sri Lanka before and after such extension does not exceed one year.

(5) Any person subject to the tax who fails to pay the tax to the Controller within the period, or on the date, required under the preceding provisions of this section shall, without prejudice to any proceedings which may be taken against him for the recovery of the tax, 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 hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Provisions for recovery of tax.

5. (1) Where any person subject to the tax fails to pay such tax to the Controller within the period, or on the date, required under section 4, the Controller shall by notice in writing require such person to pay, within such period as shall be specified in the notice, the amount of such tax to the Controller and where such person fails to pay such amount within the period specified in the notice, such amount shall be deemed to be in default.

(2) Where the amount of the tax is in default, the Controller may issue a certificate containing particulars of such amount and the name and address of such defaulter to a competent Magistrate. Such Magistrate shall, thereupon, summon the defaulter before him to show cause why proceedings for the recovery of the amount of the tax in default should not be taken

against such defaulter, and, if sufficient cause is not shown, the amount of the tax in default shall by order of such Magistrate be recovered as if it were a fine imposed on the defaulter by such Magistrate.

6. The failure of a person subject to the tax to pay the amount of such tax within the period, or on the date, required under section 4 shall be a ground on which any *visa* granted to that person under the principal enactment may be cancelled by the Controller under that enactment, and the provisions of that enactment shall, in their application in the case of that person and such *visa*, have effect accordingly.

Failure to pay the tax to be a ground for the cancellation of *visa*

7. (1) in the case of any person who is the holder of a *visa* and who is subject to the tax, that *visa* shall be conclusive proof of his period of stay in Sri Lanka.

Proof of stay in Sri Lanka.

(2) Any person who remains in Sri Lanka after the expiration of the period for which he is authorized to remain in Sri Lanka by a *visa* granted to him shall be presumed to have remained in Sri Lanka continuously from the date of the expiry of that period.

8. All sums paid to or recovered by the Controller as tax under this Act, shall be credited by the Controller to the Consolidated Fund.

Sums paid or recovered as tax to be credited to the Consolidated Fund.

9. The rate of the tax may be altered from time to time by Order made by the Minister, approved by Parliament and published in the Gazette.

Alteration of the tax.

10. The Minister may, by Order published in the Gazette, amend or vary the provisions of the Schedule to this Act.

Power to vary or amend the Schedule to this Act.

11. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the principal enactment, and accordingly the payment by any person, who remains in Sri Lanka after the expiration of the period for which he is authorized to so remain by the *visa* granted to him, of the tax to which he is liable under this Act shall not be construed, or be deemed to be construed, to affect any proceedings which may be taken under that enactment against him for remaining in Sri Lanka in contravention of any provisions of that enactment.

Provisions of this Act to be in addition to and not in derogation of the provisions of the principal enactment.

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Interpretation. **12.** In this Act, unless the context otherwise requires,—

<p>competent Magistrate means a Magistrate having Jurisdiction in the division of Colombo ;</p> <p>Controller means the Controller of Immigration and Emigration and includes any Deputy or Assistant Controller of Immigration and Emigration;</p>	<p>"principal enactment" means the Immigrants and Emigrants Act as amended by any subsequent enactment,</p> <p>"relevant date" means the first day of January, 1971 ; and</p> <p>"visa" means a <i>visa</i> granted under the principal enactment and includes any temporary residence permit, or endorsement, or extension of the period of the <i>visa</i>, granted or issued under that enactment.</p>
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SCHEDULE

[Section 3 (3)]

- (1) Air Ceylon Limited established under the Air Ceylon (Incorporation) Act-
- (2) The Bank of Ceylon established under the Bank of Ceylon Ordinance.
- (3) The Board of Trustees of the Lady Lochore Loan Fund established under the Lady Lochore Loan Fund (Board of Trustees) Act.
- (4) The Bureau of Ceylon Standards established under the Bureau of Ceylon Standards Act.
- (5) The Central Bank of Ceylon established under the Monetary Law Act.
- (6) The Ceylon Coconut Board established under the Coconut Products Ordinance.
- (7) The Ceylon Electricity Board established under the Ceylon Electricity Board Act.
- (8) The Ceylon Hotels Corporation established under the Ceylon Hotels Corporation Act.
- (9) The Ceylon Institute of Scientific and Industrial Research established under the Ceylon Institute of Scientific and Industrial Research Act.
- (10) The Ceylon Petroleum Corporation established under the Ceylon Petroleum Corporation Act.
- (11) The Ceylon Shipping Corporation incorporated under the Companies Ordinance.
- (12) The Ceylon Stale Plantations Corporation established under the Ceylon State Plantation Corporation.
- (13) The Ceylon Tourist Board established under the Ceylon Tourist Board Act.
- (14) The Coconut Fibre Board established under the Coconut Fibre Act.
- (15) The Coconut Research Board established under the Coconut Research Ordinance-
- (16) The Colombo District (Low-lying Areas) Reclamation and Development Board established under the Colombo District (Low-lying Areas) Reclamation and Development Board Act.
- (17) The Co-operative Wholesale Establishment established under the Co-operative Wholesale Establishment Act.
- (18) The Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act.
- (19) The Industrial Development Board of Ceylon established under the Industrial Development Board Act.

- (20) The Insurance Corporation of Ceylon established under the Insurance Corporation Act.
- (21) The Mahaweli Development Board established under the Mahaweli Development Board Act.
- (22) The Milk Board established under the Milk Board Act.
- (23) The National Lotteries Board established under the National Lotteries Board Act.
- (24) The National Savings Bank established under the National Savings Bank Act.
- (25) The People's Bank established under the People's Bank Act.
- (26) The River Valleys Development Board established under the River Valleys Development Board Act.
- (27) The Rubber Research Board established under the Rubber Research Ordinance.
- (28) The Sri Lanka Broadcasting Corporation established under the Sri Lanka Broadcasting Corporation Act.
- (29) The Sri Lanka Central Transport Board established under the Transport Board Law.
- (30) The Sri Lanka Ports Authority established under the Sri Lanka Ports Authority Act.
- (31) The Sri Lanka Tea Board established under the Sri Lanka Tea Board Law.
- (32) The State Mortgage and Investment Bank established under the State Mortgage and Investment Bank Act.
- (33) The State Printing Corporation established under the State Printing Corporation Act.
- (34) The University Grants Commission established under the Universities Act.
- (35) Universities or University Colleges established under the Universities Act.
- (36) The Water Resources Board established under the Water Resources Board Act.

CHAPTER 252

TEA SMALL HOLDINGS DEVELOPMENT

Law No. 35 of 1975. A LAW TO ESTABLISH A PUBLIC AUTHORITY KNOWN AS THE TEA SMALL HOLDINGS DEVELOPMENT AUTHORITY; TO PROVIDE FOR THE DEVELOPMENT, MANAGEMENT AND REGULATION OF TEA SMALL HOLDINGS; TO PROVIDE FOR THE COMPULSORY ACQUISITION OF MOVABLE AND IMMOVABLE PROPERTY; AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[9th September, 1975.]

Short title. **1.** This Law may be cited as the Tea Small Holdings Development Law.

(2) The Minister shall appoint one of the members of the Authority to be the Chairman of the Authority.

PART I

ESTABLISHMENT OF THE TEA SMALL HOLDINGS DEVELOPMENT AUTHORITY

Establishment of the Tea Small Holdings Development Authority. **2.** There shall be established an Authority which shall be called the Tea Small Holdings Development Authority (in this Law referred to as the " Authority ").

5. The quorum for any meeting of the Authority shall be three. Quorum.

The Authority to be a body corporate. **3.** The Authority shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and may sue and be sued in such name.

6. (1) Every member shall hold office for a period of five years, unless he is removed from, or otherwise vacates, office earlier: Term of office of members.

Provided that a member appointed in place of a member who is removed from, or otherwise vacates, office shall hold office, unless he is earlier removed from or otherwise vacates office, for the unexpired period of the term of office of the member whom he succeeds.

Members of the Authority, **4.** (1) The Authority shall consist of the following members appointed by the Minister:—

(2) Any member of the Authority shall be eligible for reappointment.

- (i) a representative of the Minister in charge of the subject of Agriculture,
- (ii) the Tea Commissioner or his representative,
- (iii) the Land Commissioner or his representative,
- (iv) two representatives of the Minister in charge of the subject of Plantation Industry, and
- (v) a representative of the Minister in charge of the subject of Trade.

7. (1) A member may resign office by letter addressed to the Minister, Resignation or removal of members.

(2) The Minister may, if he thinks it expedient to do so, remove a member from office without assigning any reason.

(3) Where a member 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 appoint some other person to act as member in his place.

8. Subject to the other provisions of this Law, the Authority may regulate its procedure in regard to the meetings of the Authority and the transaction of business at such meetings. Meetings.

Presidency at meetings.

9. (1) The Chairman of the Authority shall preside at every meeting of the Authority at which he is present. In the absence of the Chairman at any meeting of the Authority, a member chosen by a majority of the members present shall preside at such meeting,

(2) The Chairman of any meeting of the Authority shall, in addition to his own vote, have a casting vote.

Vacancy among members not to invalidate act or proceeding of the Authority.

10. No act or proceeding of the Authority 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.

Seal of the Authority.

11. (1) The Authority shall have a common seal which shall be in the custody of such person as the Authority may decide from time to time.

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

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of two members of the Authority, both of whom shall sign the instrument or document in token of their presence.

(4) The Authority shall maintain a register of the instruments or documents to which the seal of the Authority is affixed.

Members to disclose interest in proposed contracts to be made by the Authority.

12. A member who is directly or indirectly interested in a contract proposed to be made by the Authority shall disclose the nature of his interest at a meeting of the Authority. The disclosure shall be recorded in the minutes of the Authority, and that member shall not take part in any deliberation of the Authority with respect to such contract.

Remuneration of members of the Authority.

13. The members of the Authority shall be remunerated in such manner and at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

PART II

FUNCTIONS AND POWERS OF THE AUTHORITY

14. The functions of the Authority shall be- Functions of the Authority.

(a) to promote or to undertake the development of tea small holdings and of other tea holdings which do not possess their own means of manufacture;

(b) to acquire or to develop tea factories and other facilities required for the manufacture of the produce of such tea lands;

(c) to promote or to undertake the marketing of the produce of such factories or of such tea lands;

(d) to take all such steps as may be necessary to provide or to procure, or to facilitate the provision or procuring, of such facilities and services as may be necessary for the development of such factories and such tea lands and for the well being of those who are engaged in the production or the processing of the produce of such lands.

15. (1) The Authority shall have the power to do all such acts and take all such steps as may be necessary for, or conducive or incidental to, the performance of its functions. Powers of the Authority.

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Authority shall have the power—

(a) to 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) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Authority, all such contracts or agreements as

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- may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Authority;
- (c) to construct, manufacture, purchase, maintain and repair anything necessary for, or conducive or incidental to, the performance of the functions of the Authority ;
 - (d) to purchase, transport, store and supply any commodity, equipment or machinery necessary for, or conducive or incidental to, the performance of the functions of the Authority;
 - (e) to appoint, employ, remunerate and control such officers, servants and agents as may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Authority;
 - (f) to train, or assist financially the training of, persons to do work necessary for, or conducive or incidental to, the performance of the functions of the Authority;
 - (g) to establish and maintain welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Authority;
 - (h) to provide services of any kind that may be necessary for, or conducive or incidental to, the performance of the functions of the Authority;
 - (i) to levy fees or other charges for services performed, or facilities or equipment provided, by the Authority;
 - (j) to provide assistance, including financial assistance through loans, guaranteeing of loans, subsidies and grants, to any co-operative society, union of co-operative societies or any person or body of persons (whether corporate or not) engaged in the cultivation of tea in small holdings or any holdings which do not possess their own means of manufacture;
 - (k) to manage or participate in the management of, or assist in or supervise the management of, such tea small holdings;
- (l) subject to the provisions of this Law, to make rules in respect of the administration of the affairs of the Authority; and
 - (m)
 - (i) to require any person to maintain true and accurate records, in a form and containing the particulars specified by the Authority, relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Authority;
 - (ii) to require any person to furnish, within a specified period of time, all such returns, information and explanations as are within the knowledge of that person relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Authority;
 - (iii) to require any person to produce or cause to be produced before a specified date such documentary or other evidence as the Authority may require for the purpose of verifying any facts, entered in any record maintained under sub-paragraph (i) or stated in any return, information or explanation furnished under sub-paragraph (ii);
 - (iv) to enter and inspect, at any reasonable time, any land, building, office, store, factory, shed or premises for the purpose of examining and verifying any records or for the purpose of verifying any particulars furnished in any return made or information or explanation given to the Authority under sub-paragraphs (i) and (ii); and

(v) to enter at any reasonable time any land, building, office, store, factory, shed or premises for the purpose of inspecting and checking stocks of the produce of such tea holdings and manufactures thereof.

(3) Any person who fails, without reasonable cause, to comply with the provisions of sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii) of paragraph (m) of subsection (2), or who knowingly maintains false records or furnishes false returns, information, explanations, or documentary or other evidence, or who obstructs the Authority in the exercise of the powers conferred on it by sub-paragraph (iv) or sub-paragraph (v) of paragraph (m) of subsection (2), shall be guilty of an offence under this Law.

Delegation of powers and functions of the Sri Lanka Tea Board to the Authority.

16. The Sri Lanka Tea Board may with the approval of the Minister delegate to the Authority any of the powers or functions of the Sri Lanka Tea Board.

Delegation of the functions and powers of the Authority.

17. (1) The Authority may delegate to any member or to any employee of the Authority any of its powers or functions.

(2) Every member or employee to whom any power or function is delegated under subsection (1) shall exercise or perform such power or function subject to the direction and control of the Authority.

Authority subject to direction of Minister.

18. In the exercise, discharge and performance of its powers, duties and functions, the Authority shall be subject to general direction and control by the Minister.

PART III

FINANCE AND ACCOUNTS OF THE AUTHORITY

Capital of the Authority.

19. (1) The initial capital of the Authority 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—

(a) grants made by the Government;

(b) the value of any such net assets as may be transferred to the Authority 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 Authority shall be paid or made available to the Authority in such manner as may be determined by the Minister in charge of the subject of Finance.

(3) The capital of the Authority may be increased from time to time by the value of the net assets transferred to the Authority as provided by paragraph (b) of subsection (1) 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 Authority 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.

Financial year of the Authority.

20. The financial year of the Authority shall commence on the first day of January of each year and terminate on the thirty-first day of December of that year.

Application of the Public Corporations (Financial Control) Act.

21. The provisions of the Public Corporations (Financial Control) Act, shall, *mutatis mutandis*, apply to the financial control and accounts of the Authority.

PART IV

GENERAL

22. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law. Every regulation made by the Minister shall be published in

Power of the Minister to make regulations.

the Gazette and shall come into operation on the date of such publication, or on such later date as may be specified therein.

(2) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for its 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.

(3) Any person who contravenes or attempts to contravene the provisions of any regulation made under this Law and approved by Parliament shall be guilty of an offence under this Law.

Transfer of the possession and use of certain property of a Government department or any public corporation and certain contracts to the Authority.

23. (1) The Minister may, by Order published in the Gazette,—

- (a) transfer to and vest in the Authority the possession and use of any movable or immovable property of a Government department or any public corporation for the purposes of the Authority, and
- (b) transfer to the Authority any contracts of any Government department or of the Sri Lanka State Plantations Corporation in respect of the tea industry :

Provided, however, that no Order affecting any immovable property of any Government department or public corporation or local authority shall be made by the Minister under the preceding provisions of this section without the consent of the Minister in charge of that department or public corporation or in the case of a local authority, the Minister in charge of the subject of Local Government.

(2) Where any contract of any Government department or of the Sri Lanka State Plantations Corporation is transferred to the Authority by Order of the Minister under subsection (1), that contract shall be deemed to be a contract of the Authority and all subsisting rights and liabilities of any Government department or of the Sri Lanka State Plantations Corporation under that contract shall be deemed to be the rights and liabilities of the Authority.

24. (1) Where any immovable property is required to be acquired for any purpose of the Authority 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 Authority.

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 Authority shall be paid by the Authority.

25. (1) At the request of the Authority, 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 Authority for such period as may be determined by the Authority with like consent or be permanently appointed to such staff.

Appointment of public officers to the staff of the Authority.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 44 (other than the provisions of paragraph (a) of that subsection), of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 44 of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Authority 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 Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

26. (1) No suit or prosecution shall lie—

Protection for action taken under this Law or on the direction of the Authority.

- (a) against the Authority for any act which in good faith is done or purported to be done by the Authority under this Law; or

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(b) against any member, officer, servant or agent of the Authority 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 Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any suit or prosecution shall be credited to the funds of the Authority.

(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 Authority shall, if the court holds that such act was done in good faith, be paid out of the funds of the Authority, unless such expense has been advanced to such person by the Authority or such expense is recovered by him in such suit or prosecution.

No writ to issue against person or property of a member of the Authority.
Penalty.

27. No writ against person or property shall be issued against a member of the Authority in any action brought against the Authority.

28. 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.

Members and employees of the Authority deemed to be public servants

29. All members and employees of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

The Authority deemed to be a scheduled institution.

30. The Authority 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.

Minister's power to mitigate hardship.

31. If in the operation of this Law, any case shall arise in which, in the opinion of the Minister, substantial hardship is likely

to be caused to any person by reason of an unintentional failure on the part of such person to observe any formality prescribed by this Law or by any regulations made thereunder, the Minister may give such directions as may be necessary to mitigate or prevent such hardship.

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 have precedence over other written law.

33. In this Law unless the context otherwise requires— Interpretation.

" local authority " includes any Municipal Council, Urban Council, Town Council, or Village Council;

" management " with its grammatical variations and cognate expressions includes cultivation, replanting, rehabilitation, fertilization, soil conservation and the manufacture, processing, sale and disposal of produce;

" 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, loans or other form;

" sale " includes a sale by sample or grade and a sale for immediate or future delivery;

" tea factory " has the same meaning as in the Tea Control Act • and

" small holding " has the same meaning as in the Tea Control Act.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 355

TOBACCO TAX

Acts
Nos.
27 of 1953,
52 of 1954,
22 of 1955,
10 of 1959,
9 of 1965,

Law
No. 40 of 1973,
Act
No. 5 of 1979.

A LAW TO IMPOSE A TAX ON SRI LANKA TOBACCO LEAF INTENDED TO BE USED IN THE MANUFACTURE OF CIGARETTES OR PIPE TOBACCO AND TO GRANT REFUNDS OF SUCH TAX TO MANUFACTURERS OF SUCH CIGARETTES OR PIPE TOBACCO EXPORTED OUT OF THE ISLAND.

[24th July. 1953.]

Short title. **1.** This Act may be cited as the Tobacco Tax Act.

Imposition of tobacco tax. **2.** (1) There shall be charged, levied and paid a tax (hereinafter referred to as the " tobacco tax ") at the rate of four rupees per pound on all Sri Lanka tobacco leaf which is intended to be used in the manufacture of cigarettes or pipe tobacco.

[§2,10of 1959.] (2) The rate of the tobacco tax may from time to time be varied by the Minister in charge of the subject of Finance by Order published in the Gazette.

[§ 2, 10 of 1959.] (3) Every Order under subsection (2) shall come into force on the date of its publication in the Gazette or on such later date as may be specified in the Order, and shall be brought before Parliament within a period of one month from the date of the publication of such Order in the Gazette, or if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such Order shall be approved. There shall be set out in a schedule to every such motion the text of the Order to which the motion refers.

[§ 2, 10 of 1959.] (4) Any Order under subsection (2) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the Gazette.

(5) For the purposes of this Act, all Sri Lanka tobacco leaf which is delivered at or received into any factory shall be presumed to be tobacco leaf intended to be used in the manufacture of cigarettes or pipe tobacco.

3. (1) The tobacco tax shall be payable by each person who carries on business as a manufacturer of cigarettes or pipe tobacco in the manufacture of which Sri Lanka tobacco leaf is used. The amount of the tax shall be computed by reference to the quantity of Sri Lanka tobacco leaf delivered at or received into the factory at which such manufacture is carried on; and the amount of the tax payable upon the total quantity of such tobacco leaf so delivered or received in any week shall be paid as provided in this Act not later than the end of the next succeeding week.

Tax to be payable by manufacturers of cigarettes or pipe tobacco.

(2) No person shall use any Sri Lanka tobacco leaf or cause or permit any Sri Lanka tobacco leaf to be used in the manufacture of cigarettes or pipe tobacco unless and until the tobacco tax payable on such tobacco leaf has been duly paid in accordance with the provisions of this Act.

(3) Where any quantity of Sri Lanka tobacco leaf is delivered at any factory it shall be the duty of the person in charge of the factory, within a period of forty-eight hours after the time of such delivery, to furnish to the Excise Commissioner or to any officer designated by the Commissioner for the purpose a declaration signed by such person specifying the quantity of tobacco leaf so delivered.

Every such declaration shall be in such form as may be approved or provided for the purpose by the Excise Commissioner.

Refund of tobacco tax in cases of export of cigarettes or pipe tobacco. [§ 3, Law 40 of 1973.]

3A. Where any quantity of cigarettes or pipe tobacco in the manufacture of which Sri Lanka tobacco leaf is used, is exported out of the Island by any manufacturer, such manufacturer shall, upon application made in that behalf, be entitled to a refund of the amount of the tobacco tax paid by him in respect of the quantity of Sri Lanka tobacco leaf used in the manufacture of such cigarettes or pipe tobacco ; and the amount of any refund so made shall be charged on the Consolidated Fund.

Application for refunds. [§ 3, Law 40 of 1973.]

3B. Every application for a refund of the tobacco tax under section 3A—

- (a) shall be made to the Excise Commissioner in such form as he may provide for the purpose;
- (b) shall contain all such particulars as the Excise Commissioner may require to be set out in the form; and
- (c) shall be accompanied by the relevant export documents in support of the application.

Registration of manufacturers.

4. (1) On and after the 1st day of September, 1953, no person shall use Sri Lanka tobacco leaf in the manufacture of cigarettes or pipe tobacco unless he has been registered by the Excise Commissioner as a manufacturer for the purposes of this Act.

(2) Every application for registration as a manufacturer for the purposes of this Act—

- (a) shall be made to the Excise Commissioner in such form as he may provide for the purpose;
- (b) shall contain all such particulars as may be required to be set out in such form with respect to the use or the proposed use of Sri Lanka tobacco leaf to which this Act applies in the manufacture of cigarettes or pipe tobacco ; and
- (c) shall be accompanied by an application fee of fifty rupees.

(3) A person who is registered as a manufacturer for the purposes of this Act shall, whenever so required by the Excise Commissioner, furnish a return containing particulars as to the quantity of cigarettes being produced or estimated to be produced by the use of a specified quantity of Sri Lanka tobacco leaf; and separate particulars shall be furnished in such return with respect to each brand of cigarettes or pipe tobacco manufactured by that manufacturer.

5. The amount of the tobacco tax payable from time to time under this Act by any manufacturer shall be paid to the Government Agent of the administrative district in which the factory at which that manufacturer carries on business is situated and shall be credited to the Consolidated Fund.

Tax to be paid to Government Agent. [§ 4, Law 40 of 1973.]

Regulations made under section 10 may provide for the manner of payment of the tobacco tax and the manner and procedure for the payment of refunds under section 3A.

6. The Excise Commissioner or any officer of the Excise Department of a rank not below that of Inspector may at any reasonable time enter and inspect any factory or any premises in which Sri Lanka tobacco leaf is kept or stored or suspected to be kept or stored for the purpose of ascertaining the quantity of such tobacco leaf which is in such factory or premises, or of ascertaining whether or not the tobacco tax is payable thereon, or of verifying the accuracy of any return or declaration furnished to the Excise Commissioner under this Act, or of examining any books or documents relating to the purchase or delivery of such tobacco leaf.

Powers of inspection.

7. (1) No person who is registered as a manufacturer for the purposes of this Act shall have in his factory any quantity of imported tobacco leaf unless he has in his possession a duplicate of the bill of entry relating to the importation of that quantity of tobacco leaf into Sri Lanka.

Imported tobacco leaf.

(2) Every person who is registered as a manufacturer for the purposes of this Act shall, when requested to do so by any officer of the Excise Department of a rank not below that of Inspector, produce for

inspection a duplicate of the bill of entry relating to any quantity of imported tobacco leaf kept in his factory.

Weights and weighing instruments to be kept in factories.

8. Every person who is registered as a manufacturer for the purposes of this Act shall keep in his factory such weights and weighing instruments for weighing quantities of tobacco leaf as are in conformity with the standards established under any law for the time being in force relating to weights and measures and stamped as provided by such law, and shall, when requested to do so by any officer of the Excise Department of a rank not below that of Inspector, weigh or cause to be weighed any quantity of tobacco leaf which is in such factory.

Appeals.

9. (1) Any person who is aggrieved by any decision made by any officer of the Excise Department other than the Excise Commissioner under the provisions of this Act or any regulation made thereunder may, within fourteen days after such decision is communicated to him, appeal to the Excise Commissioner.

(2) Any person who is aggrieved by any decision made by the Excise Commissioner under the provisions of this Act or any regulation made thereunder may, within fourteen days after such decision is communicated to him, appeal to the Minister in charge of the subject of Finance.

(3) Every appeal under this section shall be in writing and shall state the grounds of appeal.

(4) Every appeal to the Minister in charge of the subject of Finance under this section shall be transmitted to him through the Secretary to the Ministry charged with the subject of Finance.

Regulations.

10. (1) The Minister in charge of the subject of Finance may make regulations for the purpose of carrying out and giving effect to the provisions of this Act and for the prevention of the evasion of the tobacco tax imposed by this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1) regulations made under that subsection may

provide for the maintenance, at any factory at which Sri Lanka tobacco leaf is used, of a separate warehouse or room for the storage of such tobacco leaf prior to the payment of the tobacco tax payable thereon, and for the measures that may be taken by the Excise Commissioner to supervise or control the removal of such tobacco leaf from such warehouse or room and to prevent its being used in the manufacture of cigarettes or pipe tobacco prior to payment as aforesaid.

(3) Every regulation made 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 in the regulation.

(4) Every such regulation shall as soon as convenient after the date of its publication in the Gazette be brought before Parliament for approval; and any such regulation which Parliament refuses to approve shall cease to be in force with effect from the date of such refusal, but without prejudice to the validity of anything previously done thereunder.

(5) Notification of the approval under subsection (4) of any regulation shall be published in the Gazette, and upon such publication the regulation shall be as valid and effectual as though it were herein enacted.

11. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of any regulation made thereunder shall be guilty of an offence and liable on conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months.

Offences and penalties.

(2) The court which convicts any person of any offence under this Act committed in respect of any Sri Lanka tobacco leaf may in addition to any other punishment which it may impose make order declaring that such tobacco leaf shall be forfeited to the State.

(3) Where a person convicted of an offence under this Act has been registered as a manufacturer for the purposes of this

Act, the court may in addition to any other punishment hereinbefore provided make order cancelling the registration of that person as a manufacturer:

Provided, however, that any such person may again be registered as a manufacturer by the Excise Commissioner if he thinks fit so to do in his discretion.

(4) For the purposes of this Act, any tobacco leaf on which no customs duty has been paid shall be presumed to be Sri Lanka tobacco leaf until the contrary is proved.

Compounding of offences.

12. Any officer of the Excise Department of a rank not below that of Deputy Commissioner may accept from any person reasonably suspected of having committed any offence under this Act a sum of money not exceeding one thousand rupees by way of compensation for the offence which may have been committed, and on the payment of such sum, no further proceedings shall be taken against such person. Any sum received under this section by an officer of the Excise Department shall be paid into the Consolidated Fund.

[§ 3, 10 of 1959.]

Commencement of charge of tax.

13. Notwithstanding anything to the contrary in any other provision of this Act, the tobacco tax shall be payable upon the total quantity of Sri Lanka tobacco leaf which, at the date of the commencement of this Act is kept or stored in any factory; and for the purposes of the application of

subsection (1) of section 3 in relation to the total quantity as aforesaid that total quantity shall be deemed to have been delivered at or received into that factory during the week which includes the date of the commencement of this Act.

14. In this Act—

Interpretation.

"cigarette" means tobacco whether cut, crushed, broken or powdered—

(i) rolled in any type of wrapper (other than tobacco leaf or tobacco leaf meant for the manufacture of beedi); and

(ii) intended for smoking;

"factory"—

(a) means any premises at which the manufacture of cigarettes or pipe tobacco is carried on, and

(b) includes any store or other place maintained in connexion with any premises referred to in paragraph (a).

"pipe tobacco" means cut tobacco or tobacco compressed into slabs which can be used, or is intended, for smoking in pipes ;

" Sri Lanka tobacco leaf " means the leaf of the tobacco plant grown in Sri Lanka.

CHAPTER 395

TREASURE TROVE

Ordinances AN ORDINANCE TO PROVIDE AGAINST THE CONCEALMENT OF TREASURE TROVE.
 Nos.17 of 1887,
 3 of 1891,
 9 of 1940.

[17th February, 1888.]

Short title. **1.** This Ordinance may be cited as the Treasure Trove Ordinance.

All treasure trove to be the absolute property of the Republic of Sri Lanka. **2.** All treasure trove shall be the absolute property of the Republic of Sri Lanka, and the person finding the same shall not, as of right, be entitled to any portion thereof, any law or custom to the contrary notwithstanding.

Duty of finder and of person who acquires possession of treasure trove. **3.** (1) It shall be the duty of every person finding treasure trove, and every person to whose knowledge the finding of treasure trove shall in any way come, and of every person to whose possession treasure trove shall in any way come, forthwith to report the fact of such finding and to surrender the treasure trove in his possession to the nearest Magistrate, if any such Magistrate resides within a distance of ten miles from the place in which such finding shall have occurred, or in which such person shall be at the time he acquires possession of such treasure trove. But if no such Magistrate resides within the distance aforesaid, such report and surrender shall be made to the nearest divisional Assistant Government Agent or grama seva niladhari or to the nearest police officer not under the rank of Sergeant, and it shall be the duty of such divisional Assistant Government Agent, grama seva niladhari or police officer forthwith to give information of such report, and to deliver possession of any treasure trove which may have been surrendered to him to the nearest Magistrate.

(2) On the receipt of the report mentioned in the preceding subsection, or

on complaint being made by any person to a Magistrate's Court that an offence has been committed under this Ordinance, the Magistrate shall proceed to inquire into the matter of such report or complaint in order to ascertain—

(a) what was the treasure trove actually found;

who were the finders,

(c) whether any offence has been committed under the Ordinance, and, if so, by whom.

(3) If, however, such Magistrate has no jurisdiction over the division in which the treasure trove has been found or may be reported to have been found, he shall forthwith transmit such information as he may have received, and any treasure trove which may have been delivered to him, to the Magistrate having such jurisdiction, and such Magistrate shall thereupon proceed to hold the inquiry as above provided.

4. The Magistrate when holding such inquiry as aforesaid shall have the same power of issuing any summons, warrant, or search warrant, and of examining witnesses on oath or affirmation, and of enforcing the production of any documents, goods, articles, or things, as he has when dealing with cases in his ordinary criminal jurisdiction; and any person wilfully giving false evidence at any such inquiry shall be liable to the pains and penalties prescribed in section 179 of the Penal Code.

Powers of Magistrate in respect of inquiries under this Ordinance.

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Record of inquiry to be forwarded to the Attorney-General.

5. The record and detailed report of such inquiry when made shall be forwarded by such Magistrate, together with his finding on the evidence adduced before him, to the Attorney-General, who may in respect thereof exercise any of the powers conferred on him by the Code of Criminal Procedure Act.

Reward to finder or possessor.

6. The finder or other person to whose possession treasure trove shall have come shall, on complying with the provisions of section 3, and on voluntarily surrendering such treasure trove to any divisional Assistant Government Agent, grama seva niladhari, police officer, or Magistrate, as hereinbefore provided, and on such treasure trove being retained by the Sri Lanka Government, become entitled to receive from the said Government payment of a sum of money equivalent to the value of the material of such treasure trove, together with an additional one-fifth of such value. The value in each case shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Reward to informer.

7. When the finder or possessor of treasure trove does not voluntarily surrender the same in manner hereinbefore provided, and any other person shall give information which shall lead to the recovery thereof, such person shall, instead of such finder or possessor, become entitled to receive the afore-mentioned reward :

Provided that if at any time a conflict of claim should arise in respect of such reward, as between the finder and possessor or

either of them and an informer, or as between two or more of any finders, possessors, and informers, the decision of the Minister thereon shall be final and conclusive.

8. Every finder of treasure trove, and every person to whose knowledge the finding of treasure trove shall in any way come and every person to whose possession treasure trove shall have come, who shall wilfully omit or neglect to report such finding, or to deliver possession of such treasure trove in manner in section 3 provided, and any person who conceals or does any act towards concealing treasure trove, or in any way alters or attempts to alter such treasure trove, so as to conceal its identity, and any divisional Assistant Government Agent, grama seva niladhari or police officer who wilfully neglects to perform the duty imposed on him by section 3, shall be guilty of an offence, and shall be liable on conviction to simple or rigorous imprisonment for a term not exceeding two years, or to a fine not exceeding one thousand rupees, or both.

Penalty for concealment.

9. Nothing contained in the Lost Property Regulation shall in any manner apply to treasure trove.

Lost Property Regulation not to apply to treasure trove.

10. For the purposes of this Ordinance "treasure trove" shall mean any money, coin, gold, silver, plate, bullion, precious stones, or anything of any value found hidden in, or in anything affixed to, the earth, and the owner of which is unknown or cannot be found, but shall not include any "antiquity" as defined in the Antiquities Ordinance.

Interpretation.

CHAPTER 174

TRADE UNIONS

Ordinances
Nos.14of1935,
3 of 1946,

Acts
Nos.15of1948,
18 of 1958,
24 of 1970.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND CONTROL OF TRADE UNIONS.

[1st November. 1935.]

PART I

PRELIMINARY

Short title.

1. This Ordinance may be cited as the Trade Unions Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

" executive " means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted and includes the president, the secretary and the treasurer of any trade union;

" lock-out " means the closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

" officer " when used with reference to a trade union; includes any member of the executive thereof, but does not include an auditor;

" prescribed " means prescribed by regulations made under section 52 of this Ordinance ;

" register " means the register of trade unions maintained by the Registrar under section 7 ;

" registered office " means that office of a trade union which is registered under this Ordinance as the head office of the trade union;

" registered trade union " means a trade union registered under this Ordinance;

" Registrar " means the person for the time being appointed under section 3 by name or by office to be or to act as Registrar of Trade Unions, and includes any person appointed under section 4 to be or to act as an Assistant Registrar of Trade Unions;

" regulation " means a regulation made by the Minister under section 52 ;

" strike " means the cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are, or have been so employed, to continue to work or to accept employment;

" trade dispute " means any dispute or difference between employers and workmen, or between workmen and workmen connected with the employment or non-employment, or the terms of the employment, or with the conditions of labour, of any person;

" trade union " means any association or combination of workmen or employers, whether temporary or permanent, having among its objects one or more of the following objects:—

(a) the regulation of relations between workmen and employers, or between workmen and workmen or

between employers and anything done or omitted to be done by him in good faith. employers; or

(b) the imposing of restrictive conditions on the conduct of any trade or business; or

(c) the representation of either workmen or employers in trade disputes; or

(d) the promotion or organization or financing of strikes or lock-outs in any trade or industry or the provision of pay or other benefits for its members during a strike or lock-out,

and includes any federation of two or more trade unions ;

" workman " means any person who has entered into or works under a contract with an employer in any capacity, whether the contract is express or implied, oral or in writing, and whether it is a contract of service or of apprenticeship, or a contract personally to execute any work or labour and includes any person ordinarily employed under any such contract, whether such person is or is not in employment at any particular time.

PART II

APPOINTMENT OF REGISTRAR AND OTHER OFFICERS

Appointment of Registrar.

3. There may be appointed a Registrar of Trade Unions who shall be responsible for the due performance of the duties and functions assigned to him as Registrar under this Ordinance.

Appointment of Assistant Registrars and other officers.

4. There may be appointed one or more Assistant Registrars of Trade Unions and such other officers as may from time to time be required for the purposes of this Ordinance.

All officers deemed to be public servants.

5. All officers appointed under sections 3 and 4 of this Ordinance shall be deemed to be public servants within the meaning of the Penal Code.

Protection of public servants

6. No suit shall lie against any public servant acting under this Ordinance for

PART III

REGISTRATION

7. (1) The Registrar shall keep and maintain in such form as may be prescribed, a register of trade unions in which shall be registered the prescribed particulars relating to any registered trade union and any alteration or change, which may from time to time be effected in the name, rules, officers or executive thereof or in the situation of the registered office thereof; and all such other matters as may be required to be registered therein under this Ordinance. Register of trade unions.

(2) A certified copy of any entry in the register shall be conclusive proof of the facts specified therein as on the date of such certified copy.

8. (1) Every trade union established before the date of the commencement of this Ordinance shall apply to be registered under this Ordinance within a period of three months reckoned from that date. Necessity for registration.

(2) Every trade union established after the commencement of this Ordinance shall apply to be registered under this Ordinance within a period of three months reckoned from the date on which it was so established.

(3) The Registrar may, if he thinks fit, from time to time grant an extension of the periods respectively specified in subsections (1) and (2):

Provided that neither of such periods shall, in any particular case, be so extended as to exceed a period of six months in the aggregate.

(4) For the purposes of this Ordinance, a trade union is established on the first date on which any workmen or employers agree to become or to create an association or combination for the furtherance of any one or more of the objects specified in the definition of a trade union in section 2.

(5) For the purpose of prosecuting any trade union which fails to apply for registration in accordance with the provisions of this section, the date of

establishment of that trade union shall, in the absence of proof of the date referred to in subsection (4), be deemed to be —

- (a) the date on which any person is proved to have been accepted or admitted as a member of that trade union; or
- (b) the date on which any act is proved to have been done by that trade union in furtherance of any one or more of the objects specified in the definition of a trade union in section 2;

and, in a case where proof is available of both the dates referred to in paragraphs (a) and (b), the earlier of such dates shall be deemed so to be the date of the establishment of that trade union.

9. (1) Every application for registration of a trade union shall be made to the Registrar in the prescribed form and shall be signed by at least seven members of the union, any of whom may be officers thereof.

(2) Uncancelled stamps to the value of one rupee shall be affixed to every such application which shall be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely:—

- (a) the names, occupations and addresses of the members making the application;
- (b) the name of the trade union and the address of its head office ; and
- (c) the titles, names, ages, addresses and occupations of the officers of the trade union.

(3) A trade union established before the commencement of this Ordinance shall deliver to the Registrar, together with its application for registration, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

10. The Registrar, if he is satisfied that a trade union applying for registration has complied with the provisions of this Ordinance and of the regulations made thereunder and that the objects, rules and

constitution of the union do not conflict with any of such provisions and are not unlawful, shall register the trade union in the prescribed manner:

Provided that if any one of the objects of such trade union is unlawful, the registration of the trade union shall be void.

11. The Registrar, on registering a trade union under section 10, shall issue to the trade union a certificate of registration in the prescribed form and that certificate, unless proved to have been cancelled or withdrawn, shall be conclusive evidence for all purposes that the trade union has been duly registered under this Ordinance.

12. The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 9 or that the trade union is entitled to registration under this Ordinance.

13. If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive or mislead the public or the members of either trade union, the Registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the trade union until such alteration has been made.

14. The Registrar may refuse to register any trade union if he is not satisfied that the trade union has complied with the provisions of this Ordinance or of any regulations made thereunder, or if he is of opinion that any one of the objects or rules, or the constitution of the union is unlawful or conflicts with any such provision.

15. (1) A certificate of registration of a trade union may be withdrawn or cancelled by the Registrar -

- (a) at the request of the trade union upon its dissolution to be verified in such manner as the Registrar may require;

Certificate of registration

Power of Registrar to call for further information

Power of Registrar to require alteration of name.

Refusal of registration.

withdrawal or cancellation of registration.

Application for registration

Registration.

- (b) if he is satisfied—
 - (i) that the certificate of registration was obtained by fraud or mistake;
 - (ii) that any one of the objects or rules of the trade union is unlawful;
 - (iii) that the constitution of the trade union or of its executive is unlawful;
 - (iv) that the trade union has wilfully and after notice from the Registrar contravened any provision of this Ordinance or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter, for which provision is required by section 38;
 - (v) that the funds of the trade union are expended in an unlawful manner or on an unlawful object or on an object not authorized by the rules of the union;
 - (vi) that the trade union has ceased to exist.

(2) Except in a case falling within subsection (1) (a), not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or to cancel its certificate of registration shall be given by the Registrar to a trade union before such certificate is withdrawn or cancelled.

(3) A trade union served with a notice under subsection (2) may, at any time within a period of two months reckoned from the date of such notice, show cause in writing against the proposal to withdraw or to cancel its certificate of registration, as the case may be; and, if such cause is shown, the Registrar may hold such enquiry as he may consider necessary in the circumstances.

(4) The Registrar may, after the expiration of the period of two months referred to in subsection (3), withdraw or cancel the certificate of registration of any trade union which has failed duly to show cause under that subsection, or which, having so shown cause, has failed to satisfy him that its certificate of registration should not be withdrawn or cancelled, as the case may be.

(5) An order made by the Registrar under this section withdrawing or cancelling the certificate of registration of any trade union shall be dated as of the date on which it was made and shall forthwith be served on the trade union affected thereby.

16. (1) Any person aggrieved by the refusal of the Registrar to register a trade union or by an order made by the Registrar under section 15, may appeal against such refusal or order by filing a petition of appeal in the District Court within a period of thirty days reckoned from the date of such refusal or order. Appeal to District Court.

(2) Every petition of appeal under subsection (1) shall—

- (a) name the Registrar as respondent;
- (b) state the grounds of appeal and the date of the refusal or order against which the appeal is preferred ;
- (c) be signed by the appellant; and
- (d) be stamped with a stamp of one rupee.

(3) It shall be competent for the District Court in appeal—

- (a) to direct the appellant or the Registrar to furnish further information;
- (b) to hold an inquiry and to take and record such evidence as it may deem necessary;
- (c) to allow the appeal and to order the registration of the trade union or to reverse any order made by the Registrar under section 15 ;

- (d) to dismiss the appeal; or
- (e) to make such order as it shall consider just and to give such directions as it may consider necessary, including directions as to the costs of the appeal and the procedure to be observed at the hearing of the appeal.

(4) Save as is otherwise in this section provided, an appeal to the District Court against a refusal of the Registrar to register a trade union or against an order made by the Registrar under section 15 shall be deemed to be a civil action of the value of three hundred rupees for the purposes of the Stamp Ordinance,* and of the Civil Procedure Code.

(5) In this section, " District Court ", in the case of an appeal against the refusal of the Registrar to register a trade union, means the District Court having local jurisdiction over the place sought to be registered as the place of the head office of the trade union in the application for registration made under section 9; and, in the case of an appeal against an order made by the Registrar under section 15, means the District Court having local jurisdiction over the place where the registered office of the trade union affected by that order is situated.

Appeal to Court of Appeal.

17. An appeal shall lie to the Court of Appeal against an order made by a District Court under section 16 and the provisions of the Civil Procedure Code shall apply accordingly in all matters relating to or connected with such appeal.

Consequences of failure to register or of withdrawal or cancellation of registration.

18. If any trade union does not apply for registration in due time, or if the registration of any trade union is refused, withdrawn, or cancelled, then—

- (a) the trade union shall be deemed to be an unlawful association and shall cease to enjoy any of the rights, immunities, or privileges of a registered trade union, but without prejudice to any liabilities incurred or to be incurred by the trade union which may be enforced against the union and its assets ;

- (b) the trade union shall not, nor shall any of its officers or agents on behalf of the union, take part in any trade dispute or promote, organize or finance any strike or lock-out, or provide pay or other benefits for its members during a strike or lock-out;

- (c) the trade union shall be dissolved and its funds shall be disposed of in accordance with the rules of the union; and

- (d) no person shall, except for the purpose of defending proceedings against the union or dissolving the union and disposing of its funds in accordance with the rules, take any part in its management or organization, or act or purport to act on behalf of the union or as an officer of the union.

PART IV

SPECIAL PROVISIONS APPLICABLE To TRADE UNIONS OF PUBLIC OFFICERS

19. In this Part-

Interpretation of this Part.

- (a) " public officer " includes any person in the employment of the Government of Sri Lanka, whatsoever may be the terms or duration of his employment as such;

- (b) " trade union to which this Part applies " means any trade union of which public officers are members or membership of which is declared by the rules of the union to be open to public officers.

20. (1) For the resolution of doubts it is hereby declared that, save as otherwise provided in subsection (2), every association or combination of public officers having as its object or among its objects one or more

Declaration that certain associations of public officers are " trade unions " .

* See also the Stamp Duty Act, No. 43 of 1982.

of the objects specified in the definition of " trade union " in section 2, is a trade union for the purposes of this Ordinance ; and the provisions of this Ordinance shall, subject to the succeeding provisions of this Part, apply accordingly in the case of every such association or combination.

[§2, 24 of 1970.]

(2) An association or combination consisting of—

- (a) judicial officers;
- (b) members of the armed forces;
- (c) police officers;
- (d) prison officers ; or
- (e) members of any corps established under the Agricultural Corps Ordinance,

shall, notwithstanding anything in its objects, be deemed not to be a trade union, and nothing in this Ordinance shall apply to, or in relation to, any such association or combination.

In this subsection—

- (a) "judicial officer" means a judicial officer, within the meaning of Article 170 of the Constitution;
- (b) " armed forces" means the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force ;
- (c) " police officer " means a member of the police force established under the Police Ordinance; and
- (d) " prison officer" has the same meaning as in the Prisons Ordinance but does not include any medical officer or apothecary for the time being on the staff of any prison.

Restriction as to registration of unions to which this Part applies. [§3, 24 of 1970.]

21. (1) The Registrar shall not register any trade union to which this Part applies unless the rules of the union contain the following provisions, that is to say :—

(a) a provision restricting the eligibility for membership of the union or for any office whatsoever (whether paid or honorary, including that of patron) solely to public officers who are employed in any one specified department of Government or in any one specified service of the Government, or who, having regard to the nature of the work upon which they are engaged are of any specified class or category of public officers though employed in different departments of Government, provided however that such provision may permit two persons from outside the department or the class or category of public officers, as the case may be, to be elected at an annual general meeting of the union to be members or to hold office, one of such two persons being the president or the secretary of the union, and the other being a member of the union; and

(b) in the case of a union of peace officers or Government staff officers, in addition to the provision referred to in paragraph (a)—

- (i) a provision declaring that the union shall not be affiliated to or amalgamated or federated with any other trade union whether of public officers or otherwise; and
- (ii) a provision declaring that the union shall not have any political objects or political fund within" the meaning of section 47 of this Ordinance.

In this subsection and in section 23—

- (a) " peace officer " shall have the same meaning as in the Code of Criminal Procedure Act, and
- (b) " Government staff officer" shall mean a Government officer who holds an office the initial of the salary scale of which is not below five hundred and sixty rupees per month.

(2) The powers of the Registrar under section 14 shall include the power to refuse to register any trade union to which this Part applies on the ground that the rules of the union do not contain the provisions or any of the provisions specified in subsection (1), or that any such provision contained in any rule is being contravened with the knowledge, consent or connivance of any officer of the union; and an appeal under section 16 shall lie in any case where the Registrar refuses to register a trade union on any ground hereinbefore mentioned.

payable in respect of any application under this section or of any proceedings upon any such application or of any document filed in the course thereof.

(6) The provisions of this section shall not be deemed or construed to prejudice any power of the Registrar to withdraw or cancel the certificate of registration of any trade union on any ground not referred to in subsection (1) of this section.

Cancellation of registration of union to which this Part applies. [§4.24 of 1970.]

22. (1) The District Court of Colombo, on application made to the court in that behalf by the Attorney-General, may make order directing the Registrar to withdraw or cancel the certificate of registration of any registered trade union to which this Part applies, if the court is satisfied that the rules of the union for the time being in force do not contain any of the provisions required by subsection (1) of section 21 or that any such required provision which is contained in any rule of the union has been contravened with the knowledge, consent or connivance of any officer of the union.

23. (1) The provisions of section 32 shall not apply to any trade union to which this Part applies.

Certain provisions of this Ordinance not to apply to certain trade unions. [§5.24 of 1970.]

(2) The provisions of sections 34 and 47 shall not apply to any trade union of peace officers or Government staff officers.

24. Save as otherwise expressly provided, the provisions of this Part shall be in addition and without prejudice to the other provisions of this Ordinance :

Saving for operation of other provisions of this Ordinance.

Provided that in the event of any conflict or inconsistency between any provision of this Part and any other provision of this Ordinance, the former provision shall prevail.

(2) Every application under subsection (1) in respect of any trade union shall—

- (a) name the union as respondent;
(b) state the grounds on which the application is made; and
(c) be signed by the Attorney-General, or by the Solicitor-General on his behalf.

(3) Upon any application being made to the District Court under subsection (1), the court shall hold an inquiry and take and record such evidence as it may deem necessary, and for the purposes of such inquiry shall have and may exercise all the powers of a District Court in a civil action.

(4) The order of the District Court upon any application under this section shall be deemed to be an order made by the court under section 16 and the provisions of section 17 shall apply accordingly.

(5) Notwithstanding anything in any other written law, no stamp duty shall be

PART V

RIGHTS AND LIABILITIES OF TRADE UNIONS

25. A trade union shall not enjoy any of the rights, immunities or privileges of a registered trade union until it is registered.

Disabilities of unregistered union.

26. No action or other legal proceeding shall be maintainable in any civil court against any registered trade union or any officer or member thereof in respect of any act done in contemplation or in furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

Immunity from civil action in certain cases.

27. An action against a trade union or against any members or officers thereof on behalf of themselves and all other members of the trade union in respect of any tortious

Trade union not liable for tortious act.

act alleged to have been committed by or on behalf of the trade union in contemplation or in furtherance of a trade dispute shall not be entertained by any court.

PART VI

CONSTITUTION

Liability in contract.

28. Every trade union shall be liable on any contract entered into by it or by an agent acting on its behalf:

Provided that a trade union shall not be so liable on any contract which is void or unenforceable at law.

Objects in restraint of trade not unlawful in case of registered trade union.

29. The objects of a registered trade union shall not, by reason only that they are in restraint of trade be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise or to render void or voidable any agreement or trust.

Proceedings by and against trade unions.

30. (1) A registered trade union may sue and be sued and be prosecuted under its registered name.

(2) An unregistered trade union may be sued and prosecuted under the name by which it has been operating or is generally known.

(3) A trade union whose registration has been cancelled or withdrawn may be sued and prosecuted under the name by which it was registered.

(4) Execution for any money recovered from a trade union in civil proceedings may issue against any property belonging to or held in trust for the trade union other than the benevolent fund of a registered trade union.

(5) Any fine ordered to be paid by a trade union may be recovered by distress and sale of any movable property belonging to or held in trust for the trade union in accordance with the provisions of the Code of Criminal Procedure Act.

(6) It shall be competent for a registered trade union to file a proxy in any court or in any civil or other judicial proceedings provided that the proxy is signed by at least two of the trustees of that registered trade union.

Membership of minors-

31. A person under the age of twenty-one, but above the age of sixteen, may be a member of a registered trade union, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member except as herein provided, 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 executive or a trustee of a registered trade union.

Officers of trade union.

32. (1) Not less than one-half of the total number of the officers of every registered trade union shall be persons actually engaged or employed in an industry or occupation with which the trade union is connected.

(2) The Minister may, by special or general Order published in the Gazette, declare that the provisions of this section shall not apply to any registered trade union or class of registered trade unions specified in the Order.

Change of name

33. Any registered trade union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 35, change its name.

Amalgamation.

34. Any two or more registered trade unions may become amalgamated together as one trade union with or without dissolution or division of the funds of such trade unions or either or any of them:

Provided that the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded, and that at least sixty *per centum* of the votes recorded are in favour of the proposal.

Notice of change of name or amalgamation.

35. (1) Notice in writing shall be given to the Registrar of every change of name and of every amalgamation, signed, in the case of a change of name, by the secretary and by seven members of the trade union changing its name, and, in the case of an

amalgamation, by the secretary and by seven members of each and every trade union which is a party thereto.

(2) If the proposed name is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall refuse to register the change of name.

(3) Save as is provided in subsection (2), the Registrar shall, if he is satisfied that the provisions of this Ordinance in respect of change of name have been complied with, register the change of name in the prescribed manner, and the change of name shall have effect from the date of such registration.

(4) If the Registrar is satisfied that the provisions of this Ordinance in respect of amalgamation have been complied with and that the trade union formed thereby is entitled to registration under section 10, he shall register the trade union in the prescribed manner and the amalgamation shall have effect from the date of such registration.

(5) Any person aggrieved by the refusal of the Registrar to register either a change of the name of a registered trade union or the trade union formed by the amalgamation of any two or more registered trade unions, may appeal against such refusal by filing a petition of appeal in the District Court within a period of thirty days reckoned from the date of such refusal.

(6) Every petition of appeal under subsection (5) shall-

- (a) name the Registrar as respondent;
- (b) state the grounds of appeal and the date of the refusal against which the appeal is preferred;
- (c) be signed by the appellant; and

(d) be stamped with a stamp of one rupee.

(7) It shall be competent for the District Court in an appeal under subsection (5)—

- (a) to direct the appellant or the Registrar to furnish further information;
- (b) to hold an inquiry and to take and record such evidence as it may deem necessary;
- (c) to allow the appeal and reverse the order made by the Registrar;
- (d) to dismiss the appeal; or
- (e) to make such order as it shall consider just and to give such directions as it may consider necessary, including directions as to the costs of the appeal and the procedure to be observed at the hearing of the appeal.

(8) Save as is otherwise in subsection (6) provided, an appeal to the District Court under subsection (5) shall for the purposes of the Stamp Ordinance * and of the Civil Procedure Code, be deemed to be a civil action of the value of three hundred rupees.

(9) In this section, " District Court ", in the case of an appeal against the refusal of the Registrar to register a change of the name of a registered trade union, means the District Court having local jurisdiction over the place where the registered office of that trade union is situated ; and, in the case of a refusal by the Registrar to register a trade union formed by the amalgamation of two or more registered trade unions, " District Court " means the District Court having jurisdiction over the place sought to be

the trade union formed as a result of such amalgamation.

(10) An appeal shall lie to the Court of Appeal against an order made by the District Court under subsection (7), and the provisions of the Civil Procedure Code shall apply accordingly in all matters relating to or connected with such appeal.

* See also the Stamp Duty Act, No. 43 of 1982.

Effect of change of name or amalgamation.

36. (1) A change in the name of a registered trade union shall not affect any rights or obligations of that trade union or render defective any legal proceeding by or against the trade union, and any legal proceeding which might have been continued or commenced by or against it under its former name may be continued or commenced by or against it under its new name.

(2) An amalgamation of two or more registered trade unions shall not prejudice any right of either or any such trade unions or any right of a creditor of either or any of them.

Registered office.

37. (1) Every registered trade union shall have a registered office to which all communications and notices may be addressed.

(2) Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar and shall be registered by him, and the trade union shall not be deemed to have complied with the provisions of this Ordinance until such notice has been given.

(3) Every trade union which—

(a) operates without having a registered office, or without giving notice of the situation of its registered office as hereinbefore required ; or

(b) operates at any place to which its registered office may have been removed, without having given notice of the change in the situation thereof to the Registrar,

shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding ten rupees for every day during which it is so in operation; and every officer of any such trade union shall be liable to be convicted and fined a like amount in respect of the same offence.

Rules.

38. (1) The rules of every registered trade union shall provide for all the matters specified in the First Schedule.

(2) A copy of the rules for the time being in force of any registered trade union shall be prominently exhibited at the registered office thereof and shall be furnished by the secretary of such trade union to any person on demand on payment of a sum not exceeding fifty cents.

(3) A copy of every new rule and of every alteration made in the rules of a registered trade union shall be sent to the Registrar within seven days of the making of such rule or alteration and shall be registered by the Registrar on payment of the prescribed fee.

(4) The rules of a trade union may be [§2,18 of made in Sinhala, or Tamil, or English. 1958.]

39. Notice of all changes of officers or of the title of any officer shall be prominently exhibited in the registered office of every registered trade union, and shall, within seven days after the change, be sent to the Registrar by such trade union together with the prescribed fee, and the Registrar shall thereupon correct the register accordingly.

Notice of change of officers, &c.

40. When a registered trade union is dissolved, notice of the dissolution signed by seven members and by the secretary of the trade union shall, within fourteen days of the dissolution, be sent to the Registrar and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the trade union; and the dissolution shall have effect from the date of such registration.

Notice of dissolution.

41. (1) The rules of a trade union shall provide for the appointment or election of trustees and for the filling of vacancies in the office of trustee so that, as far as may be, there shall always be at least three trustees of the union.

Trustees.

(2) Any officer or member of a registered trade union may be a trustee thereof.

PART VII

PROPERTY

All property vested in trustees.

42. All property, movable or immovable, of a registered trade union shall be vested in its trustees for the use and benefit of the union and its members and shall be under the control of the trustees.

Devolution of property.

43. Upon any change in the office of the trustee, the property of a registered trade union shall vest in the trustee or trustees for the time being of the union for the same estate and interest as the former trustee had therein, and subject to the same trusts, without any conveyance or assignment.

Purchase or lease of land or buildings.

44. Subject to any provision in its rules, it shall be lawful for a registered trade union to purchase or to take upon lease for the purposes of the union and in the names of its trustees any land not exceeding one acre in extent or any buildings and, subject to any written or other law which may be applicable, to sell, exchange, hypothecate or lease any such land or building which may be so purchased.

PART VIII

FUNDS AND ACCOUNTS

Application of funds.

45. The funds of a registered trade union may, subject to the rules thereof and to the provisions of this Ordinance, be applied for any lawful object for which that trade union has been established.

Purposes for which the funds of a union shall not be applied.

46. The funds of a registered trade union shall not be applied either directly or indirectly in payment of the whole or part of any fine or penalty imposed upon any person by sentence or order of a Court of Justice.

Political objects and political fund

47. (1) A registered trade union may constitute a separate fund, hereinafter in this Ordinance called "the political fund", from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects, hereinafter in this Ordinance called "political objects" specified in subsection (2).

(2) The political objects referred to in subsection (1) are—

- (a) the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election as a Member of Parliament or to any public office, before, during, or after the election, in connexion with his candidature or election; or
- (b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or
- (c) the maintenance of any person who is a Member of Parliament or who holds a public office ; or
- (d) the compilation or revision of any register of electors, the registration of electors, or the selection of a candidate for election as a Member of Parliament or for any public office; or
- (e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

In this subsection, " public office " means the office of any member of any Municipal Council, Urban Council, Town Council, Village Council or any other local authority constituted by or under any written law and which has or may have the power to raise money, either directly or indirectly, by means of the imposition or levy of any tax, rate or fee.

(3) No political fund shall be created by any registered trade union unless a resolution in favour of the creation of a political fund is passed by a majority of the members of the union present and voting at a general meeting specially convened for the purpose. The voting at a general meeting so convened shall be by ballot held in the prescribed manner.

(4) No payment in furtherance of any political object shall be made by any registered trade union except out of the political fund of that union.

(5) No member of a registered trade union shall be liable to contribute to the political fund of that union unless he has signed and delivered at the registered office thereof a notice substantially in the form I in the Second Schedule of his willingness to contribute to that fund and has not withdrawn such notice by signing and delivering at the registered office of the union a notice substantially in the form II in that Schedule.

(6) A notice under subsection (5) may be delivered personally or by an agent or servant, and shall be deemed to have been duly delivered if it is sent by registered post addressed to the secretary of the registered trade union at its registered office.

(7) No member shall be compelled or required to make a contribution to the political fund unless he is liable for such contribution.

(8) Where a member of a registered trade union is liable to contribute to the political fund of that union, every demand made to that member for a contribution to the funds of the union shall specify separately the amount, if any, demanded from him as a contribution to the political fund ; and every receipt issued to any member of a registered trade union for any contribution made by that member to the funds of that union shall specify separately what sum, if any, out of the total amount of such contribution was received from that member on account of the political fund.

(9) No assets of a trade union, other than the contributions of members liable to contribute to the political fund and voluntary contributions to the political fund received from non-members, shall be credited to the political fund ; and no assets of a trade union not forming part of the political fund shall be directly or indirectly applied in furtherance of any political object.

(10) A member of a registered trade union who does not contribute to the political fund thereof shall not be expelled therefrom nor be excluded from any benefits of that trade union nor be placed in any respect either directly or indirectly

under any disability or at any disadvantage as compared with other members of that trade union (except in relation to the control or management of the political fund) by reason of his not contributing to that fund; and a contribution to the political fund shall not be made a condition for admission to the trade union.

48. An injunction restraining any unauthorized or unlawful expenditure of the funds of a registered trade union may be granted on the application of any person having a sufficient interest in the relief sought, or of the Attorney-General.

Injunction to restrain unauthorized or unlawful expenditure of funds.

49. (1) Every treasurer of a registered trade union and every other officer thereof who is responsible for the accounts of the union or for the collection, disbursement, custody or control of the funds or moneys thereof, shall, upon resigning or vacating his office and at least once in every year at such time as may be specified by the rules of the union and at any other times at which he may be required to do so by a resolution of the members of the union or by the rules thereof, render to the union and its members a just and true account of all moneys received and paid by him during the period which has elapsed since the date of his assuming office, or if he has previously rendered an account, since the last date upon which he rendered such account, and of the balance remaining in his hands, at the time of rendering such account and of all bonds, securities, or other property of the trade union entrusted to his custody or under his control.

Treasurer to render accounts.

(2) The form of account may be prescribed by regulation.

(3) The account shall be verified by affidavit, and the union shall cause the account to be audited by some fit and proper person approved by the Registrar.

(4) After the account has been audited, the treasurer or other officer referred to in subsection (1) shall forthwith hand over to the trustees of the union, if required by them to do so, such balance as appears to be due from him, and also, if so required, all bonds, securities, effects, books, papers, and property of the union in his hands or custody, or otherwise under his control.

Annual returns.

50. (1) The secretary of every registered trade union shall furnish annually to the Registrar on or before the prescribed date in each and every year a general statement audited in the prescribed manner, of all receipts and expenditure during the period of twelve months ending on the thirty-first day of March next preceding such prescribed date, and of the assets and liabilities of the trade union as at such thirty-first day of March. The statement shall be accompanied by a copy of the auditor's report and shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement referred to in subsection (1), the secretary of each registered trade union shall furnish to the Registrar a copy of all alterations or amendments of rules, and of all new rules, and a list of all changes of officers, made by the union during the period of twelve months preceding the said thirty-first day of March, and a copy of the rules of the trade union in force on that day.

(3) In the case of a registered trade union which was established before the commencement of this Ordinance, it shall be lawful for the Registrar, on application made to him in that behalf, by writing under his hand to substitute the day on which the financial year of that trade union ends for the thirty-first day of March mentioned in subsections (1) and (2) and, if necessary, some other date for the date prescribed for the purposes of subsection (1); and all the provisions of this section shall thereupon apply accordingly in the case of that registered trade union as though the date and the day so substituted were respectively the date referred to in subsection (1) and the day referred to in subsections (1) and (2).

(4) Every member of a registered trade union shall be entitled to receive free of charge a copy of the general statement referred to in subsection (1) and the secretary of each registered trade union shall deliver a copy of such statement to every member of his union who makes application to him therefor.

(5) Any secretary of a registered trade union who fails to comply with any of the

requirements of this section shall be guilty of an offence, and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one hundred rupees.

(6) Every person who wilfully makes or orders or causes or procures to be made any false entry in or omission from any general statement, copy or list delivered to the Registrar under subsections (1) and (2) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

51. The account books of a registered trade union and a list of the members thereof shall be open to inspection by any officer or member of the trade union at such times as may be provided for in the rules of the trade union.

Inspection of accounts and documents.

PART IX

REGULATIONS

52. (1) The Minister may make regulations for the purpose of carrying out or 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), 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 ;
- (b) the books and registers to be kept for the purposes of this Ordinance and the forms thereof;
- (c) the manner in which trade unions and the rules of the trade unions shall be registered and the fees payable on registration;
- (d) the manner in which, and the qualifications of persons by whom, the accounts of registered trade unions or of any class of such unions shall be audited ;

- (e) the conditions subject to which inspection of documents kept by the Registrar shall be allowed and the fees which shall be chargeable in respect of such inspections ;
- (f) the due disposal and safe custody of the funds and moneys of a trade union;
- (g) the creation, administration, protection, control and disposal of the benevolent funds of registered trade unions and all matters connected therewith or incidental thereto; and
- (h) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

(3) The Minister may by regulation declare that any regulation made under paragraph (g) of subsection (2) shall apply to a specified trade union only or that any particular trade union or class of trade union shall be exempt from the operation of any regulation made under that paragraph of that subsection.

Approval of regulations.

53. (1) No regulation made under section 52 shall have effect unless it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(2) Every regulation made by the Minister shall upon publication of a notification of the approval of that regulation as provided for in subsection (1), be as valid and effectual as if it were herein enacted.

PART X

OFFENCES AND PENALTIES

Penalty for misuse of money or property of a registered trade union.

54. (1) Where, on complaint made by a member of a registered trade union, it is shown to the satisfaction of a Magistrate that any officer or member of that union has in his possession or control any property of the union except in accordance with the rules of the union, or has

unlawfully expended or withheld any money of the union, the Magistrate shall, if he considers the justice of the case so requires, order such officer or member to deliver all such property to the trustees of the union and to pay to them the money so unlawfully expended or withheld.

(2) A complaint made under subsection (1) shall not be entertained unless the Magistrate is satisfied that the complainant is, on the date of that complaint, a member of the registered trade union in respect of the property of which such complaint is so made.

(3) Any person bound by an order made under subsection (1) who fails to comply with the terms thereof and the directions given therein within a time to be specified in such order shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding five hundred rupees.

(4) An order under subsection (1) shall not affect or prevent a prosecution of, or civil proceedings against, any such officer or member.

55. Any person who, with intent to deceive, gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union any document purporting to be a copy of the rules of the trade union or of any alterations thereto which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered trade union to any person on the pretence that such rules are the rules of a registered trade union, shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for any period not exceeding three months, or to both such fine and imprisonment.

Supplying false information regarding trade unions.

56. If default is made on the part of any registered trade union in doing any act, in giving any notice, or in sending any statement, return or other document as required by this Ordinance or by the regulations made thereunder, every officer or other person bound by the rules of the trade union or under the provisions of this

Penalty for failure to comply with requirements of this Ordinance in regard to returns, &c.

PART XI

MISCELLANEOUS

Ordinance or the regulations made thereunder to do such act, or to give such notice, or to send such statement, return or document, or, if there is no such officer or person, every member of the executive of that registered trade union shall severally be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty rupees.

General penalty,

57. (1) Every person who, and every trade union which, contravenes any provision of this Ordinance or any regulation made thereunder shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one hundred rupees unless some other punishment is provided for such offence by this Ordinance.

(2) Upon conviction of an unregistered trade union under subsection (1), every person proved to have been a member of the executive of that trade union at any time after the commencement of this Ordinance shall be deemed severally to be guilty of the offence for which the trade union was so convicted and the Magistrate shall, after necessary enquiry, declare in his judgment and verdict the name of each person so deemed to be guilty and shall pass sentence upon him according to law.

Limitation of prosecutions.

58. No prosecution shall be instituted under this Ordinance except by, or at the instance of, or with the written consent of, the Attorney-General.

Saving of offences under other written law.

59. The offences and penalties specifically defined and provided in this Ordinance are in addition to and not in substitution of those defined and provided in any other written law.

60. This Ordinance shall not affect— Ordinance not to affect certain agreements.

(a) any agreement between partners as to their own business ; or

(b) any agreement between an employer and those employed by him as to such employment; or

(c) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

61. The following enactments, Certain Ordinances not to apply to trade unions. namely:-

(a) the Companies Ordinance*,

(b) the Societies Ordinance,

(c) the Business Names Ordinance, and

(d) the Co-operative Societies Law,

shall not apply to any trade union; and the registration of any trade union under any of those enactments shall be void.

62. Every summons, notice or other document required to be served on a trade union in any civil or criminal proceeding shall be deemed to be duly served if it is delivered at the registered office of the trade union or if it is served personally on the president or the treasurer or the secretary or on any officer of the trade union provided that such service is otherwise in compliance with the requirements of written law. Service of legal process.

FIRST SCHEDULE

[Section 38.]

MATTERS FOR WHICH PROVISION MUST BE MADE IN THE RULES OF EVERY REGISTERED TRADE UNION

1. The name of the trade union and the place of meeting for the business of the trade union.

2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, the conditions under which any member thereof may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member thereof.

3. The manner of making, altering, amending, and rescinding rules.

• Repealed and replaced by the Companies Act, No. 17 of 1982.

- 4. The appointment or election and removal of an executive and of trustees, secretaries, treasurers, and other officers, of the trade union.
- 5. The custody and investment of the funds of the trade union, the designation of the officer or officers responsible therefor, and the annual or periodical audit of its accounts.
- 6. The inspection of the books and names of members of the trade union by any person having an interest in the funds of the trade union.
- 7. The manner of the dissolution of the trade union and the disposal of the funds thereof available at the time of such dissolution.

SECOND SCHEDULE

Form I

FORM OF POLITICAL FUND CONTRIBUTION NOTICE

POLITICAL FUND CONTRIBUTION NOTICE

[Section 47(5).]

Name of Trade Union:.

I,..... hereby give notice that I am willing, and agree, to contribute to the political fund of the above Trade Union; and I understand that I shall, in consequence, be liable to contribute to that fund, and shall continue to be so liable, unless I deliver at the office of the Union a written notice of withdrawal.

(Signed) A. B.

Address :.....

Date of delivery:.....

Membership number (if any):.

Form II

FORM OF WITHDRAWAL OF POLITICAL FUND CONTRIBUTION NOTICE

WITHDRAWAL OF POLITICAL FUND CONTRIBUTION NOTICE

Name of Trade Union :.....

I,..... hereby give notice that I withdraw the political fund contribution notice delivered by me at the registered office of the above Trade Union, signifying my willingness to contribute to the political fund of that Union; and I understand that from the date of delivery of this notice at the registered office of the Union I shall not be liable to contribute to the political fund of the Union, unless I deliver at the registered office of the Union a further contribution notice.

(Signed) A. B.

Address:.....

Date of delivery:.....

Membership number (if any): .

CHAPTER 175

TRADE UNION REPRESENTATIVES (ENTRY INTO ESTATES)

Act
No. 25 of 1970.

AN ACT TO SECURE AUTHORIZED REPRESENTATIVES OF TRADE UNIONS THE RIGHT TO ENTER ESTATES FOR THE PURPOSE OF VISITING MEMBERS OF SUCH UNIONS OR OF HOLDING OR ADDRESSING MEETINGS OF SUCH MEMBERS.

[20 th October. 1970.]

Short title.

1. This Act may be cited as the Trade Union Representatives (Entry into Estates) Act.

3. In this Act-

Interpretation.

Power of authorized representatives of trade unions to enter estates for certain purposes.

2. (1) An authorized representative of a trade union shall, on producing a certificate of identity, if so required, have the right to enter an estate at all reasonable times—

" authorized representative ", when used with reference to a trade union, means any person who has been appointed by the president or the secretary of that union to be a representative of that union for the purpose of this Act;

(a) for the purpose of visiting members of such union who are resident on such estate, and

" certificate of identity ", when used with reference to any person who is an authorized representative of a trade union, means a document issued to such person by the president or the secretary of that union and stating that for the purposes of this Act such person is a representative of that union;

(b) for the purpose of holding or addressing meetings of members of such union who are employed on such estate:

" estate" means any land or group of lands—

Provided, however, that entry into an estate for any purpose specified in paragraph (b) shall not be demanded as of right by such authorized representative unless not less than one week's notice in writing of the intended entry for such purpose has been given to the person in charge of the estate.

(a) which forms a separate and distinct property;

(b) which belongs to or is held by one or several persons; and

(2) Any person who wilfully obstructs an authorized representative of a trade union in the exercise of any right under subsection (1) 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 months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(c) of which an extent of not less than fifty acres is under cultivation for any purpose other than the production of foodstuffs as defined in the Food Production (Estates) Act; and

" trade union" means any trade union registered under the Trade Unions Ordinance.

CHAPTER 49

UNIFORMS

Ordinance
No. 6 of 1895.

AN ORDINANCE TO REGULATE AND RESTRICT THE WEARING OF UNIFORMS OF THE ARMED
FORCES OF SRI LANKA.

[2nd October. 1896.]

Short title.

1. This Ordinance may be cited as the Uniform Ordinance.

Military uniforms not to be worn without authority.

2. (1) It shall not be lawful for any person not serving in the armed forces to wear, without the President's permission, the uniform of any of the armed forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform:

Provided that this enactment shall not prevent any persons from wearing any uniform or dress in the course of a stage play performed in a place duly licensed or authorized for the public performance of stage plays, or in the course of a circus performance, or in the course of any bona fide military representation.

Penalty.

(2) If any person contravenes this section he shall be liable on conviction to a fine not exceeding fifty rupees.

3. If any person not serving in the armed forces wears without the President's permission the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform, or employs any other person so to wear that uniform or dress, he shall be liable on conviction to a fine not exceeding one hundred rupees, or to simple imprisonment for a term not exceeding one month, or to both.

Uniform of armed forces not to be brought into contempt.

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

"armed forces" means the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force.

CHAPTER 383

UNIVERSITIES

Act No. 16 of 1978.

AN ACT TO ESTABLISH A UNIVERSITY GRANTS COMMISSION AND A UNIVERSITY SERVICES APPEALS BOARD; TO PROVIDE FOR THE ESTABLISHMENT, MAINTENANCE AND ADMINISTRATION OF UNIVERSITIES WITH THEIR CAMPUSES AND FACULTIES, AND OTHER HIGHER EDUCATIONAL INSTITUTIONS; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Parts I, II, III, IV & XXI and Section 143 of Part XX — 22nd December, 1978.]
 [All other Parts and all other Sections of Part XX — 1st January, 1979.]

Short title.

1. This Act may be cited as the Universities Act.

(2) the apportionment to Higher Educational Institutions of the funds voted by Parliament in respect of university education, and the control of expenditure by each such Higher Educational Institution;

PART I

ESTABLISHMENT OF THE UNIVERSITY GRANTS COMMISSION

Establishment of a University Grants Commission.

2. (1) There shall be established a University Grants Commission (hereinafter referred to as "the Commission"), which shall consist of the persons who are for the time being members of the Commission under this Act.

(3) the maintenance of academic standards in Higher Educational Institutions;

(4) the regulation of the administration of Higher Educational Institutions ;

(2) The Commission shall by the name assigned to it by subsection (1), be a body corporate with perpetual succession and a common seal and with full power and authority—

(5) the regulation of the admission of students to each Higher Educational Institution; and

(a) in such name to sue and be sued in all courts;

(6) the exercise, performance and discharge of such powers, duties and functions as are conferred, or imposed on, or assigned to, the Commission by or under this Act.

(b) to alter the seal at its pleasure;

4. (1) The Commission shall consist of a Chairman and four other members all of whom shall be appointed by the President. Constitution of the Commission.

(c) to acquire by way of purchase or otherwise, both movable and immovable property, and to hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of property, both movable and immovable.

(2) The Commission may, from time to time, appoint such Standing Committees and *ad hoc* Committees consisting of such number of members and with such powers, duties and functions as may be determined by the Commission, so however that the Chairman of each such Committee shall be a member of the Commission.

Objects of the Commission.

3. The objects of the Commission shall be—

(1) the planning and co-ordination of university education so as to conform to national policy;

5. (1) Every member of the Commission, including the Chairman, shall, unless he vacates office earlier, hold office for a term of five years reckoned from the Terms of office of members of the Commission.

date of his appointment, and shall, unless removed from office, be eligible for reappointment;

Provided, however, that if any member vacates his office prior to the expiry of his term, his successor shall, unless such successor vacates his office earlier, hold office for the unexpired portion of the term of office of his predecessor.

(2) A member of the Commission may resign his office by writing under his hand addressed to the President, but shall continue in office until such time as his resignation has been accepted.

(3) If the Chairman, or other member of the Commission, is, by reason of illness or other infirmity or absence from Sri Lanka or other cause, temporarily unable to perform the duties of his office, the President may appoint another member to act for such Chairman, or a fit person to act in the place of such other member, as the case may be.

(4) The Chairman and other members of the Commission shall be paid such remuneration and allowances as the Minister shall, in consultation with the Minister in charge of the subject of Finance, determine.

6. (1) The Chairman of the Commission shall preside at all meetings of the Commission. In the absence of the Chairman from any meeting of the Commission, the members shall elect any member from among the members present, to preside at such meeting.

(2) The quorum for a meeting of the Commission shall be three members.

(3) The Commission shall meet as often as necessary, and in any case not less than once in each month, at such time and place as the Commission may determine, and shall, subject to the provisions of subsection (2), observe such rules of procedure in regard to the transaction of business as it may make under this Act.

7. (1) The Chairman of the Commission shall be the chief executive officer of the Commission.

(2) The Chairman of the Commission shall be in control of the day to day

administration of the affairs of the Commission.

(3) The Commission may, by resolution, delegate to the Chairman any of the powers, duties and functions conferred, imposed on or assigned to it under this Act, other than such powers, duties and functions under sections 15, 16 and 18.

(4) In the exercise, performance and discharge of the powers, duties and functions conferred or imposed on or assigned to him, or delegated to him, under this Act, the Chairman shall be subject to the general or special directions of the Commission.

(5) The Chairman shall, notwithstanding that he is the chief executive officer of the Commission, be deemed not to be a member of the staff of the Commission.

8. (1) The Commission shall appoint the staff of the Commission which shall consist of:—

- (a) a Secretary; and
- (b) such other officers and employees as the Commission may deem necessary for the proper and efficient conduct of its business.

(2) Subject to the other provisions of this Act, the Commission may—

- (a) appoint, dismiss and exercise disciplinary control over the staff of the Commission;
- (b) fix the wages or salaries or other remuneration of such staff;
- (c) determine the terms and conditions of service of such staff; and
- (d) establish and regulate welfare schemes for the benefit of the staff of the Commission and may make, to such schemes, contributions in respect of such staff.

9. (1) At the request of the Commission, any officer in the public service may, with the consent of that officer, the Secretary to the Ministry by or under which that officer is employed and the

Staff of the commission.

Proceedings of the Commission.

Chairman of the Commission.

Appointment of public officers to the staff of the Commission.

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 be permanently appointed to such staff-

(2) Where any officer in the public service is temporarily appointed to the staff of the Commission, the provisions of subsections (3) and (5) of section 26 of the State Industrial Corporations Act, other than paragraph (a) of subsection (3) of section 26, shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Commission, the provisions of subsections (4) and (5) of section 26 of the State Industrial Corporations Act shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Commission employs any person who has entered into any contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Commission by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Commission any officer or other employee of any Higher Educational Institution may, with the consent of that officer or employee and the principal executive officer of that Higher Educational Institution, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission 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 Commission and such principal executive officer.

(6) Where any officer or other employee of any Higher Educational Institution is temporarily appointed to the staff of the Commission, he shall be subject to the same

disciplinary control as any other member of such staff.

10. (1) The Commission shall have its own Fund. Fund of the Commission.

(2) There shall be paid into such Fund—

(a) all such sums of moneys as may be provided by Parliament for the use of the Commission;

(b) all such sums of money as may be received by the Commission by way of donations, gifts or grants from any source whatsoever and fees charged for services rendered by the Commission; and

(c) all such sums of money as are required to be paid into such Fund by or under this Act.

(3) There shall be paid out of such Fund—

(a) all sums of money required to defray any expenditure incurred by the Commission in the conduct of its business or in the exercise, performance and discharge of its powers, duties and functions under this Act, or any other written law; and

(b) all such sums of money as are required to be paid out of such Fund by or under this Act.

11. (1) The Commission shall cause its accounts to be kept in such form and manner as may be determined by the Treasury in consultation with the Auditor-General. Accounts of the Commission and financial year.

(2) The books of accounts of the Commission shall be kept at the office of the Commission.

(3) The financial year of the Commission shall be the same as the financial year of the Government.

12. (1) The Commission shall have its accounts audited each year by the Auditor-General. For the purpose of assisting him in Audit of the accounts of the Commission,

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.

(2) For the purpose of meeting the expenditure incurred by him in auditing the accounts of the Commission, the Auditor-General shall be paid from the Fund of the Commission 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 Commission by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(3) For the purpose 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.

(4) The Auditor-General shall examine the accounts of the Commission 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 financial position of that Commission; 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 that Commission.

(5) The Auditor-General shall transmit his report to the Commission.

(6) The Auditor-General's report referred to in subsection (5) shall be considered by the Commission and the Commission shall, within three months of the transmission of such report to the Commission, inform the Auditor-General of the steps taken or proposed to be taken with regard to the matters pointed out in such report.

(7) The Commission shall, each year, within three months of the receipt by it of the Auditor-General's report, transmit such report together with any comments made thereon by the Commission under subsection (6) and the statement of accounts to which the report relates, to the Minister who shall cause copies thereof to be tabled in Parliament, before the end of the year next succeeding the year to which such accounts and report relate, and the Chairman of the Commission shall attend and answer any questions arising therefrom before the Public Accounts Committee of Parliament.

(8) The provisions of Article 154 of the Constitution shall apply to and in relation to the audit of the accounts of the Commission by the Auditor-General.

13. (1) No suit or prosecution shall lie—

- (a) against the Commission for any act which in good faith is done or purported to be done by the Commission under this Act, or any appropriate Instrument; or
- (b) against any member of the Commission or of the staff thereof for any act which in good faith is done or purported to be done by him under this Act or any appropriate Instrument, or on the direction of the Commission.

Protection for action taken under this Act, &c., or on the direction of the Commission.

(2) Any expense incurred by the Commission in any suit or prosecution brought by or against the Commission before any court shall be paid out of the Fund of the Commission, and any costs paid to, or recovered by, the Commission in any such suit or prosecution shall be credited to that 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 which is done or purported to be done by him under this Act or any appropriate Instrument, or on the direction of the Commission, shall, if the court holds that the act was done in good faith, be paid out of the Fund of the Commission, unless such expense is recovered by him in such suit or prosecution.

(4) No writ against person or property shall issue against a member of the Commission in any action brought against the Commission.

PART II

POWERS, DUTIES AND FUNCTIONS OF THE UNIVERSITY GRANTS COMMISSION

Succeeding provisions of this Part not to prejudice the operation of certain other provisions.

14. The succeeding provisions of this Part shall be without prejudice to the operation of the provisions of any other Part of this Act which confers or imposes on or assigns to the Commission any power, duty or function.

Powers of the Commission.

15. The Commission shall have and exercise all or any of the following powers :—

- (i) to inquire into or investigate, from time to time, the financial needs of each Higher Educational Institution;
- (ii) to prepare, from time to time, in consultation with the governing authority of each Higher Educational Institution, triennial budgets for its maintenance and development, or for any other general or special purpose;
- (iii) to make recommendations, from time to time, to the Minister as to the nature and amount of grants, out of public funds, which it is desirable or necessary to make to each Higher Educational Institution;
- (iv) to determine, from time to time, within the overall wage and salary policies of the Government, the quantum of remuneration that should be paid to different grades of the staff of the Higher Educational Institutions and the nature and extent of the other benefits that the staff should receive;
- (v) to determine, in consultation with the governing authority of each Higher Educational Institution, the courses which shall be provided therein, and the degrees, diplomas, and other academic distinctions which shall be awarded ;
- (vi) to determine, from time to time, in consultation with the governing authority of each Higher Educational Institution, the total number of students which shall be admitted annually to each Higher Educational Institution and the apportionment of that number to the different courses of study therein;
- (vii) to select students for admission to each Higher Educational Institution, in consultation with an Admissions Committee whose composition, powers, duties and functions shall be prescribed by Ordinance;
- (viii) to determine in consultation with the governing authority of each University, the external examinations which it shall conduct for enabling those who are not students of the University or of any recognized institution, to obtain degrees, diplomas, and other academic distinctions of the University;

- (ix) to formulate schemes of recruitment and procedures for appointment of the staff of the Higher Educational Institutions;
- (x) to investigate or to cause investigation into such matters pertaining to the discipline of the students of any Higher Educational Institution, as may be brought to the notice of the Commission by the principal executive officer of that Higher Educational Institution, and to take remedial measures; and
- (xi) to do all such other acts or things as may be necessary for effectively exercising any of the powers specified by this Act and for the attainment of the objects set out in section 3.

respect of all or any of the following matters:—

- (a) all matters to be prescribed by Ordinance, in respect of which Ordinances are authorized or required to be made by the Commission by any other provision of this Act;
- (b) the terms and conditions of service of the staff of the Commission and of the Higher Educational Institutions;
- (c) the schemes of recruitment, and the procedures for appointment, to the staff of the Commission and of the Higher Educational Institutions;
- (d) the establishment and maintenance of standards of instruction in Higher Educational Institutions for the grant of degrees, diplomas, and other academic distinctions;
- (e) the co-ordination of facilities in and around Higher Educational Institutions;
- (f) the nature and scope of extension services which may be provided and organized by Higher Educational Institutions;
- (g) the recognition of foreign degrees and diplomas and other academic distinctions; and
- (h) any other matter connected with, or incidental to, any of the matters aforesaid.

Annual report of the Commission.

16. The Commission shall, before the expiry of a period of six months after the closure of each financial year of the Commission, transmit a report giving a full account of its activities during that year to the Minister who shall cause copies thereof to be tabled in Parliament. The Commission shall cause copies of that report to be made available for sale to the public at such price as may be determined by the Commission.

Power of the Commission to call for information and returns.

17. The Commission may by notice require the governing authority of any Higher Educational Institution to furnish to the Commission within such period as shall be specified in the notice, all such returns or information relating to all such matters as may be necessary to enable the Commission to effectively exercise, perform and discharge any of its powers, duties and functions under this Act, and it shall be the duty of that governing authority to comply with the requirements of such notice.

Power of the Commission to make Ordinances.

18. (1) The Commission may make Ordinances in respect of all such matters as it may deem necessary to enable it to effectively exercise, perform and discharge its powers, duties and functions under this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Commission may make Ordinances in

(3) Every Ordinance made by the Commission under this Act shall be published in the Gazette and shall come into operation on the date specified therein.

PART III

POWERS OF THE MINISTER

19. The Minister shall be responsible for the general direction of university education and the administration of this Act. Responsibility of Minister.

Power of the Minister to issue directions to the Commission.

20. (1) (a) The Minister may from time to time issue to the Commission such general written directions as he may deem necessary in pursuance of national policy in matters such as finance, university places and medium of instruction, to enable him to discharge effectively, his responsibility for university education and the administration of this Act. Every such direction shall as soon as possible be tabled in Parliament.

(b) The Commission shall comply with such directions and the governing authority of every Higher Educational Institution shall afford such facilities, and furnish such information, to the Commission or any member or officer thereof as may be necessary to enable the Commission to comply with such directions.

(2) (a) For the purpose of enabling him to discharge effectively his responsibility for university education and the administration of this Act, the Minister may from time to time, order all or any of the activities, or the administration, of any Higher Educational Institution to be investigated and reported upon by the Commission.

(b) The Commission shall comply with such order and the governing authority of any Higher Educational Institution to which that order relates shall afford such facilities and furnish such information, to the Commission or any member or officer thereof as may be necessary to enable the Commission to comply with any such order.

(3) Where the Minister is satisfied that the situation prevailing in a Higher Educational Institution is likely to endanger national security or is detrimental or prejudicial to national policy, he may direct the Commission to take all such steps as he may deem necessary to bring such situation under control.

(4) Where the Minister is satisfied that, due to any strike or lockout or any other cause, the work or administration of any Higher Educational Institution has been seriously dislocated and that the Authorities of such Higher Educational Institution have failed to restore normal conditions, the Minister may take all such measures as may be necessary to ensure the restoration of normal conditions in such Higher Educational Institution. Pending the restoration of normal conditions, the

Minister may, by Order published in the Gazette, make all such provisions as he may deem necessary in respect of all or any of the following matters relating to such Higher Educational Institution:—

- (a) the closure of such Higher Educational Institution;
- (b) the appointment of any person by name or by office, to be a competent authority for the purpose of exercising, performing or discharging, in lieu of any Officer, Authority or other body of such Higher Educational Institution, any power, duty or function under this Act or any appropriate Instrument, and
- (c) any other matter connected with or relating to any of the matters aforesaid.

(5) Any Order made by the Minister under subsection (4) shall come into force on such date as may be specified therein. Any such Order shall, as soon as possible thereafter, be tabled in Parliament and shall, unless earlier rescinded, remain in force for a period not exceeding three months thereafter.

PART IV

UNIVERSITIES, CAMPUSES AND UNIVERSITY COLLEGES

21. The Minister may, in consultation with the Commission, by an Order (hereinafter referred to as a "University Order")—

- (a) establish a University, which shall be a body corporate with perpetual succession and a common seal, for the purpose of providing, promoting and developing higher education in all such branches of learning as shall be specified in such order;
- (b) assign a name and style to such University;
- (c) specify the location or site which shall be the seat of such University;

Establishment of a University.

UNIVERSITIES

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- (d) assign a Faculty or Faculties to such University; and
- (e) specify the Departments of Study comprising such Faculty or Faculties.

Establishment of a Campus.

22. The Minister may, in consultation with the Commission, by an Order (hereinafter referred to as a " Campus Order ")—

- (a) establish a Campus of a University;
- (b) assign a name and style to such Campus;
- (c) specify the location or site of such Campus, being a location or site which shall not be the seat of the University to which the Campus will be attached;
- (d) assign a Faculty or Faculties to such Campus; and
- (e) specify the Departments of Study comprising such Faculty or Faculties.

Establishment of an Open University.

23. (1) The Minister may, in consultation with the Commission, by an Order (hereinafter referred to as an " Open university Order"),—

- (a) establish an Open University, which shall be a body corporate with perpetual succession and a common seal for the purpose of providing higher educational facilities to those who are not students of any of the institutions referred to in sections 21, 22, 24 and 25;
- (b) assign a name and style to such Open University; and
- (c) specify the location or site which shall be the seat of such Open University.

(2) The structure, powers, duties and functions of an Open University shall be prescribed by Ordinance.

24. The Minister may, in consultation with the Commission, by an Order (hereinafter referred to as a " University College Order ")—

Establishment of a University College.

- (a) establish a University College, which shall be a body corporate with perpetual succession and a common seal for the purpose of providing, promoting and developing higher education in all such branches of learning as shall be specified in such order;
- (b) assign a name and style to such College;
- (c) specify the location or site which shall be the seat of such College ;
- (d) assign a Faculty or Faculties to such College;
- (e) specify the Departments of Study comprising such Faculty or Faculties; and
- (f) specify the University or Universities to which such College shall be affiliated.

25. The Commission may, with the concurrence of the Minister and subject to such conditions as may be prescribed by Ordinance, recognize institutions for the purpose of providing courses of study approved for the examinations of a Higher Educational Institution.

Recognition of existing institutions for providing approved courses of study.

26. Every University Order, Campus Order, Open University Order and University College Order shall be published in the Gazette. Each such Order shall come into force on the date specified therein and shall, as soon as possible thereafter, be tabled in Parliament.

Every Order under sections 21, 22, 23 and 24 to be tabled in Parliament.

27. (1) A University Order, Campus Order, Open University Order or University College Order may, on the recommendation of the Commission, be amended, varied or revoked by the Minister.

Altering of Order, under sections 21, 22, 23 or 24.

(2) Every Order made under subsection (1) shall be published in the Gazette. Each such Order shall come into force on the date specified therein and shall, as soon as possible thereafter, be tabled in Parliament.

PART V

POWERS, DUTIES AND FUNCTIONS OF
A UNIVERSITY

University
Order and
general powers
of a University.

28. (1) Upon the coming into force of a University Order made under section 21, a University shall be deemed to have been established with the name and style assigned to it by that Order, and with full power and authority—

- (a) in such name, to sue and to be sued in all courts;
- (b) to alter the seal at its pleasure;
- (c) to acquire by way of purchase or otherwise, property, both movable and immovable, and to take, accept and hold any such property which may become vested in it by virtue of any such purchase, or by any grant or donation, lease, testamentary disposition or otherwise;
- (d) to sell, hypothecate, lease, exchange or otherwise dispose of any such property:

Provided, however, that any sale, hypothecation, lease, exchange or other disposition of any such property shall be invalid if the same is made in contravention of any restriction, condition or prohibition imposed by law or by any appropriate Instrument or Order, by which any such property was vested in the University ; and

- (e) to exercise, perform and discharge all such powers, duties and functions as may be conferred or imposed on, or assigned to, the University by this Act or any appropriate Instrument.

(2) The powers conferred on a University by the preceding provisions of this section shall, unless otherwise expressly provided by this Act or any appropriate Instrument, be exercised by its Council.

29. Subject to the powers, duties and functions of the Commission, a University shall have power—

Powers of a
University.

- (a) to admit students and to provide for instruction in any approved branch of learning;
- (b) to hold examinations for the purpose of ascertaining the persons who have acquired proficiency in different branches of learning;
- (c) to co-operate, by way of exchange of teachers, students and scholars or otherwise, with other Universities or institutions in Sri Lanka or abroad, having objects similar or substantially similar to those of the University;
- (d) to provide postgraduate courses, and for this purpose, to co-operate with other universities or authorities in Sri Lanka or abroad, in such manner and for such purposes as the University may determine;
- (e) to grant and confer degrees, diplomas and other academic distinctions to and on persons who have pursued approved courses of study in the University or in any recognized institution and who have passed the examinations of the University prescribed by By-law;
- (f) to conduct with the concurrence of the Commission, external examinations for enabling those who are not students of the University or of any recognized institution to obtain degrees, diplomas, and other academic distinctions of the University ;
- (g) to grant and to confer with the concurrence of the Commission, degrees, diplomas, and other academic distinctions, to and on persons who, not being students of the University or of any recognized institution, shall have passed the external examinations of the University;

- (h) to admit graduates or students of other Universities to equal or similar degrees and courses of study in the University on such conditions as may be prescribed by By-law and to register them as graduates or students of the University;
- (i) to confer honorary degrees or other academic distinctions on persons recommended by the Senate of the University and approved by the Council of such University;
- (j) to recognize the examinations passed and periods of learning or study pursued by persons seeking admission to, or by students of, the University at other universities or places of learning of university status as are equivalent to such examinations and periods of learning or study in the University, or such part thereof, as may be prescribed by By-law, and to withdraw such recognition at any time;
- (k) to erect, equip, and maintain for the purpose of the University, libraries, laboratories and other buildings whether for instructional or residential purposes;
- (l) to institute Professorships, Associate Professorships, Senior Lectureships or Lectureships, and other posts as may be required for the purposes of the University;
- (m) to institute and award fellowships, scholarships, exhibitions, bursaries, medals and other prizes ;
- (n) to regulate and provide for the residence, discipline and well-being of students and teachers, officers and other employees of the University;
- (o) to establish and manage halls of residence, to licence lodging-houses providing residential facilities to students and to provide such other services and facilities as may be necessary for the residence of students of the University ;
- (p) to assist students of the University to obtain loans from banks and other agencies in accordance with By-laws providing for the same;
- (q) to provide for extension services to the general public, including employees and school-leavers, in trades and industry and in accordance with any By-law providing for the same;
- (r) to make arrangements for conducting courses or parts of courses in educational institutions outside the University, in accordance with any By-law providing for the same;
- (s) to demand and receive fees in accordance with any Regulation providing for the same ; and
- (t) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University.

30. Subject to the provisions of sections 29 (c) and 31, a University shall be open to all persons of either sex and whatever race, creed or class, who are citizens of Sri Lanka, and other persons who are lawfully in Sri Lanka, and no test of religious belief or profession shall be adopted or imposed in order to entitle any such person to be admitted as a teacher or student of the University, or to hold any appointment therein or to graduate thereat or to hold, enjoy or exercise any advantage or privilege thereof.

Distinctions of race, creed, class or religion prohibited.

31. Nothing in the provisions of section 30 shall be deemed or construed to prevent religious instruction being given in a University in any manner which may be prescribed by By-law, to those willing to receive it, by persons approved for that purpose by its Council.

Certain restrictions on the application of section 30,

PART VI

THE CHANCELLOR AND THE OFFICERS OF UNIVERSITIES

The Chancellor.

32. The President shall nominate the Chancellor of each University. The Chancellor shall be the Head of the University, hold office for a period of five years reckoned from the date of his nomination, and shall, when present, preside at any meeting of the Court and at any Convocation of the University.

Officers of the University.

33. The Officers of a University shall be the following:—

- (i) the Vice-Chancellor;
- (ii) the Deputy Vice-Chancellor, if any;
- (iii) the Rector of each Campus, if any;
- (iv) the Dean of each Faculty;
- (v) the Registrar;
- (vi) the Librarian;
- (vii) the Bursar; and
- (viii) the holder of any other post declared by Ordinance to be a post, the holder of which is an Officer for the purpose of this section.

The Vice-Chancellor

34. (1) (a) Subject to the provisions of subsection (7) of this section, the Vice-Chancellor of a University shall be appointed by the Chancellor for a term of three years on being elected by the Court of that University. He shall not be eligible for reappointment as Vice-Chancellor of the same University unless re-elected after the expiry of a period of three years since the completion of his last term of office. The procedure for the election of a Vice-Chancellor shall be prescribed by Ordinance.

(b) The Vice-Chancellor of a University shall be removed from office by the Chancellor on a vote of censure passed by not less than two-thirds of the total membership of the Court, at a special meeting convened for the purpose.

(2) The Vice-Chancellor shall be a full-time officer of the University, and shall be the principal executive officer and principal academic officer thereof. He shall be an ex officio member of the Court, and an ex officio member and Chairman of both the Council and the Senate. In the absence of the Chancellor, the Vice-Chancellor shall preside at meetings of the Court. The Vice-Chancellor shall be entitled to convene, be present and speak at, any meeting of any other Authority of the University or other body, but shall not be entitled to vote at any such meeting unless he is a member of such other Authority or other body.

(3) It shall be the duty of the Vice-Chancellor, in accordance with such directions as may from time to time be lawfully issued to him in that behalf by the Council, to ensure that the provisions of this Act and of any appropriate Instrument are duly observed, and he shall have and may exercise all such powers as he may deem necessary for the purpose.

(4) Subject to the provisions of this Act, it shall be the duty of the Vice-Chancellor to give effect, or to ensure that effect is given, to the decisions of the Council and of the Senate.

(5) The Vice-Chancellor shall be the Accounting Officer of the University.

(6) The Vice-Chancellor shall be responsible for the maintenance of discipline within a University.

(7) The Vice-Chancellor shall, unless he vacates office earlier or is removed from office under subsection (1) (b) of this section, hold office for a term of three years, or until he has completed his sixty fifth year, whichever event occurs earlier.

(8) If the Vice-Chancellor, by reason of leave, illness, absence from Sri Lanka, or other cause, is temporarily unable to perform the duties of his office, the Commission shall, within seven days of the occurrence of such inability, make such arrangements as it may think fit for carrying on the duties of the office. Until such arrangements are made, the Registrar shall carry on the routine duties of the office.

(9) If any vacancy occurs in the office of Vice-Chancellor, the Commission shall, within seven days of the occurrence of such vacancy, make such arrangements as it may think fit for carrying on the duties of the office, until a permanent appointment is made under the preceding provisions of this section; and until such arrangements are made, the Registrar shall carry on the routine duties of the office.

The Deputy Vice-Chancellor.

35. The Council of a University may, at its discretion and with the prior approval of the Commission, appoint a Deputy Vice-Chancellor. The procedure for the appointment of a Deputy Vice-Chancellor and his powers, duties and functions shall be prescribed by Ordinance.

The Rector of a Campus.

36. (1) The Rector of a Campus shall be appointed by the Vice-Chancellor of the University to which such Campus is attached. He shall, unless he vacates office earlier, hold office for a period of three years reckoned from the date of his appointment and shall, unless removed from office, be eligible for re-appointment for a further period of three years immediately succeeding the aforesaid period.

(2) If the Rector, by reason of leave, illness, absence from Sri Lanka or other cause, is temporarily unable to perform the duties of his office, the Vice-Chancellor shall, within seven days of the occurrence of such inability, make such arrangements as he may think fit for carrying on the duties of the office. Until such arrangements are made, the Registrar shall carry on the routine duties of the office.

(3) The Rector shall be a full-time officer of the Campus and shall be the academic and administrative Head of the Campus.

(4) The Rector shall be the Chairman of the Campus Board.

(5) The Rector shall, subject to the general direction and control of the Vice-Chancellor, be responsible for the maintenance of discipline in the Campus.

The Registrar. **37.** (1) The Registrar of a University shall be appointed by the Council upon the recommendation of a Selection Committee,

the composition of which shall be prescribed by Ordinance. He shall be a full-time officer of that University and shall exercise, perform and discharge such powers, duties and functions as may be conferred or imposed on or assigned to him by this Act or by any appropriate Instrument.

(2) The Registrar shall be responsible for the custody of the records and the property of the University.

(3) The Registrar shall be the ex officio secretary of the Court, the Council and the Senate.

(4) The Registrar shall be the Assistant Accounting Officer of the University.

(5) The Registrar shall, subject to the direction and control of the Vice-Chancellor, be responsible for the general administration of the University and the disciplinary control of its non-academic staff.

38. (1) The Bursar of a University shall be appointed by the Council upon the recommendation of a Selection Committee, the composition of which shall be prescribed by Ordinance. He shall be a full-time officer of that University and shall exercise, perform and discharge such powers, duties and functions as may be conferred or imposed on or assigned to him by this Act or by any appropriate Instrument. The Bursar.

(2) The Bursar shall, subject to the direction and control of the Registrar, be responsible for the administration of the finances of the University and maintain its accounts in such form and manner as may be prescribed by Ordinance. He shall have the custody of the funds of the University.

39. (1) The Librarian of a University shall be appointed by the Council upon the recommendation of a Selection Committee, the composition of which shall be prescribed by Ordinance. He shall be a full-time officer of that University and shall exercise, perform and discharge such powers, duties and functions as may be conferred or imposed on or assigned to him by this Act or by any appropriate Instrument. The Librarian.

(2) The Librarian shall, subject to the direction and control of the Vice-Chancellor, be responsible for the administration of the library or libraries of the University.

PART VII

THE AUTHORITIES OF A UNIVERSITY

The Authorities of a University.

40. The Authorities of a University shall be the following:—

- (i) the Court;
- (ii) the Council;
- (iii) the Senate;
- (iv) the Campus Board or Boards, if any;
- (v) the Faculty or Faculties ; and
- (vi) such other bodies as may be prescribed by Ordinance to be such Authorities.

The Court.

41. (1) The Court of a University (hereinafter referred to as "the Court"), shall consist of the following persons :—

(a) Ex officio members:—

- (i) the Chancellor;
- (ii) the Vice-Chancellor;
- (iii) the Deputy Vice-Chancellor, if any;
- (iv) the members of the Council;
- (v) the Rector of each Campus, if any ; and
- (vi) the Dean of each Faculty.

(b) Elected members :—

- (i) one member from each Faculty elected from among members of the Faculty who are also members of the Senate;
- (ii) two members of the University teaching staff elected by all the

permanent teachers of the University who are not members of the Senate;

(iii) two members, one of whom shall be elected by the administrative staff, and the other, by the non-academic staff, of the University;

(vi) two students elected by the Students' Assembly of the University from among its own members;

(v) six Members of Parliament elected from among its Members; and

(vi) one member elected from among their members by each of eight professional and cultural institutions determined by the Commission from time to time.

(2) Each elected member shall hold office for a term not exceeding three years reckoned from the date of his election, but so long however only as he retains the status or membership by virtue of which he was eligible for election as a member of the Court.

42. (1) There shall be an Annual Meeting of the Court to be held on a date to be fixed by the Vice-Chancellor.

Meetings of the court.

(2) The Vice-Chancellor shall, whenever he thinks necessary, or within two weeks upon the receipt by him of a written requisition from not less than one-third of the total membership of the Court, convene a Special Meeting of the Court.

(3) The quorum for any meeting of the Court shall be one-third of its total membership.

(4) The members elected under section 41 (1) (b) (iv) shall be excluded from proceedings of any meeting of the Court relating to examinations and connected matters, and any such meeting shall, notwithstanding such exclusion, be deemed to have been duly held.

Powers, duties and functions of the Court.

43. Subject to the provisions of this Act, the Court shall exercise, perform and discharge the following powers, duties and functions;—

- (a) to make Statutes and by Statute to amend, add to, vary or repeal any Statute so made;
- (b) to elect the Vice-Chancellor and, if it thinks necessary, to recommend his removal to the Chancellor;
- (c) to consider and, if necessary, to amend or rescind By-laws made by the Council, without prejudice to anything previously done under such By-laws;
- (d) to consider and, if necessary, to amend or adopt the Annual Report and the Annual Accounts of the University:

Provided that no such amendment shall be made unless the opinion of the Council thereon has first been obtained ; and

- (e) to do any other act or to perform any other duty authorized or imposed upon the Court by this Act or by Order, Ordinance or Statute made under this Act.

The Council.

44. (1) The Council of a University (hereinafter referred to as " the Council"), shall be the executive body and governing authority of the University and shall consist of the following persons :—

- (i) the Vice-Chancellor;
- (ii) the Rector of each Campus, if any;
- (iii) the Dean of each Faculty;
- (iv) three members elected by the Senate from among its own members; and
- (v) such number of members as is equal to the total number of members under paragraphs (i), (ii), (iii) and (iv) above, increased by three. All such members shall be appointed by the Commission from among

persons who have rendered distinguished service in educational, professional, commercial, industrial, scientific or administrative spheres.

(2) The Chairman of the Council shall be the Vice-Chancellor who shall preside at all meetings of the Council. If the Chairman is unable to preside at a meeting, the members shall elect any member present to preside at such meeting.

(3) Subject to the provisions of subsection (4), any appointed member of the Council shall, unless he vacates office earlier, hold office for a term of three years reckoned from the date of his appointment, and shall, unless removed from office, be eligible for re-appointment:

Provided, however, that if any appointed member vacates his office prior to the expiry of his term, his successor shall, unless he vacates his office earlier, hold office for the unexpired portion of the term of office of his predecessor.

(4) An appointed member of the Council may resign his office by writing under his hand addressed to the Chairman of the Commission.

(5) An appointed member of the Council who, for whatever reason, absents himself from three consecutive meetings of the Council, shall be deemed to have vacated his office as a member of the Council and the Commission shall appoint a fit person to fill the resulting vacancy.

(6) A member of the Council shall not be entitled to any remuneration, but a member appointed under subsection (1) (v) may be paid such allowances as the Minister shall, in consultation with the Minister in charge of the subject of Finance, determine.

(7) The quorum for a meeting of the Council shall be one-third of its total membership.

(8) The Council shall meet whenever necessary so however that it meets on not less than ten occasions in each year.

(9) The Chairman of the Council shall, whenever he thinks necessary or within one week upon the receipt by him of a written requisition from not less than one-third the total membership of the Council, convene a Special Meeting of the Council.

Powers, duties and functions of the Council.

45. (1) Subject to the provisions of this Act, the Council shall exercise the powers and perform and discharge the duties and functions conferred or imposed on, or assigned to, the University.

(2) Without prejudice to the generality of the powers conferred upon it by subsection (1), the Council shall exercise, perform and discharge the following powers, duties and functions :—

- (i) to hold, control and administer the property and funds of the University;
- (ii) to select a coat of arms for the University, and to determine the form, to provide for the custody and to direct the use, of the common seal of the University ;
- (iii) to regulate and to determine all matters concerning the University in accordance with the provisions of this Act and of any appropriate Instrument;
- (iv) to administer any funds placed at the disposal of the University for specific purposes;
- (v) to receive and accept with the concurrence of the Commission, bequests, donations and grants of property to the University ;
- (vi) to consider the annual report and the annual accounts of the University, and to submit such report and such accounts to the Court and to the Commission;
- (vii) to prepare the financial estimates of the University and to submit such estimates to the Commission;
- (viii) to draft Statutes as and when it seems fit for any matter required by

this Act and to submit the same to the Court;

- (ix) to make By-laws for any matter in respect of which By-laws are authorized to be made ;
 - (x) to make such Regulations as are not provided to be made by any other Authority of the University ;
 - (xi) to provide the buildings, premises, furniture, equipment and other material needed for carrying on the work of the University;
 - (xii) to appoint persons to, and to suspend, dismiss or otherwise punish persons in the employment of, the University:
- Provided that, except in the case of Officers and teachers, these powers may be delegated to the Vice-Chancellor;
- (xiii) to appoint examiners, whether from the staff of the University or from elsewhere, after consideration of the recommendations of the Senate, and to determine any fees which may be paid to such examiners;
 - (xiv) to appoint a Board of Welfare, which shall also include representatives of the students, for the promotion of the general well-being of the students of the University. The composition, powers, duties and functions of such Board shall be prescribed by Ordinance;
 - (xv) to enter into, carry out or cancel contracts on behalf of the University, and to invest any moneys belonging to the University including any unapplied income, in any security in which, under the provisions of section 20 of the Trusts Ordinance or of any other written law, it is lawful to invest trust moneys; or, with the approval of the Commission, in invest any such moneys in the purchase of

- immovable property in Sri Lanka or vary such investments, or to place on fixed deposit in any bank approved by the Commission, any portion of such moneys not required for immediate expenditure;
- (xvi) to determine, after consultation with the Senate, the academic dress or insignia, or both, of the Chancellor, the Officers, the graduates and the students of the University;
- (xvii) to advise the Commission on—
- (a) to institution, abolition or suspension of Professorships, Associate Professorships, Lecturerships and any other academic post, in consultation with the Senate;
 - (b) the institution, abolition or suspension of any non-academic post; and
 - (c) the qualifications of teachers, officers and other employees of the University; and
- (xviii) to exercise all other powers of the University the exercise of which is not otherwise provided for in this Act or any appropriate Instrument:

Provided that no resolution shall be passed by the Council in relation to any academic matter unless the Senate has first been given an opportunity of recording and transmitting to the Council its opinion thereon.

In this section, "academic matter" means any matter which is subject to the control and general direction of the Senate.

The Senate.

46. (1) A University shall have a Senate which shall be the academic authority of the University.

(2) The Senate of a University shall consist of the following persons :—

- (a) the Vice-Chancellor;
- (b) the Deputy Vice-Chancellor, if any;
- (c) the Rector of each Campus, if any ;
- (d) the Dean of each Faculty;
- (e) the Head of each Department of Study;
- (f) the Librarian; and
- (g) two teachers, other than those referred to in paragraphs (c), (d) and (e), elected by the permanent teachers of each Faculty from among their number.

(3) Each elected member shall hold office for a period of two years reckoned from the date of his election.

(4) The quorum for a meeting of the Senate shall be one-fourth of its total membership.

(5) The Senate shall have control and general direction of instruction, education, research and examinations in the University.

(6) Subject to the provisions of this Act and without prejudice to the generality of the powers conferred upon it by subsection (5), the Senate shall exercise, perform and discharge the following powers, duties and functions;—

- (i) to draft, after consideration of reports from the Faculty or the Faculties concerned. Regulations relating to courses of study and examinations, and to submit such drafts to the Council for approval;
- (ii) to recommend to the Council, after consideration of reports from the Faculty or Faculties concerned, the names of persons suitable for appointment as examiners;

- (iii) to recommend to the Council the institution, abolition or suspension of Professorships, Associate Professorships, Senior Lectureships, Lectureships, and other academic posts in the University;
- (iv) to recommend to the Council after consideration of reports from the Faculty or the Faculties concerned—
 - (a) schemes for the reorganization of existing Faculties and Departments of Study and the organization of new Faculties and Departments of Study; and
 - (b) the assignment of subjects of study to the respective Faculties;
- (v) to recommend to the Council the mode and conditions of competition for fellowships, scholarships, exhibitions, bursaries, medals and other prizes;
- (vi) to award fellowships, scholarships, exhibitions, bursaries, medals and other prizes on such conditions as may be approved by the Council;
- (vii) to appoint such number of Standing Committees, or *ad hoc* Committees or Boards of the Senate as it may deem fit, and in particular, but without prejudice to the generality of the preceding provisions of this subsection—
 - (a) a Library Committee;
 - (b) an Admissions Committee;
 - (c) a Research Committee ;
 - (d) a Curriculum and Evaluation Committee; and
 - (e) a Probationary Study Leave Committee,

and to specify their terms of reference; to consider their reports

and to either approve such reports, whether with or without modification, or to reject such reports; and

- (viii) to recommend to the Council requirements for the admission of students to courses of study.

47. (1) A Campus shall have a Board, The Campus Board. (hereinafter referred to as the " Campus Board"), whose composition shall be prescribed by Ordinance.

(2) The Campus Board shall be responsible—

- (i) for the internal administration of the Campus;
- (ii) for making arrangements for the general well-being of, and the provision of amenities for, persons attached to the Campus; and
- (iii) for the performance of any other duties as may be prescribed by Statute.

(3) The Campus Board may, with the approval of the Council, make Rules in respect of all matters relating or incidental to or connected with, the internal administration of the Campus.

48. (1) Each Faculty of a University Faculties of the University. shall consist of the following persons :

- (a) all Professors, Associate Professors, Senior Lecturers and Lecturers of the Departments of Study comprising the Faculty who have been confirmed in their appointments;
- (b) the Librarian or his nominee;
- (c) two members elected by the permanent Assistant Lecturers of the Faculty from among their number;
- (d) two members of the permanent staff imparting instructions in the Faculty, excluding those referred to in (a) and (c), elected from among their number;

- (e) two students elected by the students of the Faculty from among their number; and
- (f) three persons, not being members of the University, elected by the Faculty from among persons of eminence in the areas of study relevant to the Faculty.

(2) A member elected under paragraph (e) of subsection (1) shall hold office as a member for a period of one year, and any other elected member for a period of three years, reckoned from his date of election, and shall be eligible for re-election.

(3) Subject to the provisions of this Act, a Faculty shall exercise, perform and discharge the following powers, duties and functions—

- (i) to consider and report on any matter referred to it by the Senate;
- (ii) subject to the control of the Senate, to regulate matters connected with teaching, examinations and research in the Departments of Study in the Faculty;
- (iii) to present recommendations and reports to the Senate on all matters connected with the courses of study and examinations in the Faculty;
- (iv) to appoint committees, which may include persons other than members of the Faculty, for the purpose of considering and reporting on any special subject or subjects; and
- (v) to recommend to the Senate persons suitable for appointment as examiners.

(4) The members elected under paragraph (e) of subsection (1) shall be excluded from the proceedings of any meeting of the Faculty relating to examinations and connected matters, and any such meeting shall, notwithstanding such exclusion, be deemed to have been duly held.

49. (1) There shall be a Dean of each Faculty who shall be a full-time officer of the University and the academic and administrative Head of that Faculty. The Dean shall be elected by the Faculty from among the Heads of the Departments of Study comprising such Faculty, and shall, when so elected, cease to be the Head of the Department of Study concerned.

The Dean of the faculty.

(2) The Dean shall, subject to the provisions of any appropriate Instrument, hold office for a period of three years reckoned from the date of his election and shall, unless removed from office, be eligible for re-election.

(3) Where owing to leave of absence, illness or other cause, the Dean of a Faculty is temporarily unable to perform the duties of his office for a period not exceeding three months, the Vice-Chancellor shall appoint another Head of a Department of that Faculty to act in the post of Dean, for such period. Where however a Dean of a Faculty retires or resigns, or is for any other reason unable to perform the duties of his office for a period exceeding three months, the post of Dean of that Faculty shall be deemed to be vacant, and a new Dean shall be elected in accordance with subsection (1). The person so elected shall hold office for the unexpired portion of the term of office of his predecessor.

50. A University may, from time to time, make recommendations to the Commission as to the establishment of such Faculties and Departments of Study as it may deem necessary for developing its teaching, research and extension programmes.

University to make recommendations regarding Faculties.

51. (1) The Head of a Department of Study shall be a Professor, Associate Professor, Senior Lecturer or Lecturer appointed by the Council upon the recommendation of the Vice-Chancellor.

The Head of a Department of study.

(2) The Head of a Department shall, subject to the provisions of any appropriate Instrument, hold office for a period of three years reckoned from the date of his appointment and shall, unless removed from office, be eligible for reappointment.

(3) Where owing to leave of absence, illness, or other cause, the Head of a Department is temporarily unable to perform the duties of his office for a period not exceeding three months, the Vice-Chancellor shall appoint another Professor, Associate Professor, Senior Lecturer or Lecturer of that Department to act in the post of Head of Department for such period. Where however a Head of a Department retires or resigns, or is for other reason unable to perform the duties of his office for a period exceeding three months, the post of Head of Department shall be deemed to be vacant, and a new Head of Department shall be appointed in accordance with subsection (1). The person so appointed shall hold office for the unexpired portion of the term of office of his predecessor.

Constitution powers, duties and functions of bodies declared by the Commission to be Authorities to be prescribed.

52. The constitution, powers, duties and functions and the terms of membership, other than of ex officio membership, of such other bodies as shall be declared by the Commission to be Authorities of a University, shall be prescribed by Ordinance.

PART VIII

CONVOCATION OF A UNIVERSITY

Holding of a Convocation of a University.

53. (1) A University shall hold once in every year on such date or dates as may be approved by the Chancellor, a Convocation for the purpose of conferring degrees:

Provided that, a University may hold a Special Convocation at such other time as the Chancellor may determine;

Provided further that, first degrees may be conferred without the holding of a Convocation.

(2) The procedure of a Convocation shall be prescribed by By-law,

(3) The President shall, when present, preside at a Convocation. In his absence, the Chancellor shall preside at such Convocation, and in the absence of both the President and the Chancellor, the Vice-Chancellor shall so preside.

PART IX

OFFICERS AND AUTHORITIES OF A UNIVERSITY COLLEGE, AND THEIR POWERS, DUTIES AND FUNCTIONS

54. (1) Upon the coming into force of a University College Order under section 24, the University College established with the name and style assigned to it by that Order, and the Director and the members for the time being of the Board of Management and the Academic Syndicate shall have full power and authority by and in such name to do all the things a University is empowered or authorized to do under section 28 (1) of this Act.

University College Order and general powers of a University College.

(2) The powers conferred on a University College by the preceding provisions of this section shall, unless otherwise expressly provided, be exercised by its Board of Management,

55. Subject to the relevant University College Order, and the powers, duties and functions of the Commission, a University College shall have power—

Powers of a University College.

- (a) to admit students;
- (b) to provide for instruction in such branch or branches of learning as may with the concurrence of the Commission, be approved by the University or by any one of the Universities to which such College has been affiliated;
- (c) to conduct with the approval of each appropriate University, examinations for the purpose of ascertaining the persons who have acquired proficiency in such branch or branches of learning as have been with the concurrence of the Commission approved by such University, and to recommend to such University persons who, having passed such examinations and having satisfied such other conditions as such University may prescribe by By-laws, are eligible for the award of degrees, diplomas and other academic distinctions of such University;

- (d) to co-operate, by way of exchange of teachers, students and scholars or otherwise, with Universities or institutions in Sri Lanka or abroad having objects similar or substantially similar to those of the University College;
- (e) to erect, equip, and maintain for the purpose of the University College, libraries, laboratories and other buildings whether for instructional or residential purposes;
- (f) to institute Professorships, Associate Professorships, Senior Lecturerships or Lecturerships and other posts as may be required for the purposes of the University College;
- (g) to institute and award fellowships, scholarships, exhibitions, bursaries, medals and other prizes;
- (h) to manage halls of residence, to license lodging-houses providing residential facilities to students and to provide such other services and facilities as may be necessary for the residence of students of the University College;
- (i) to regulate and provide for the residence, discipline and well-being of officers, teachers, students and employees of the University College;
- (j) to assist students of the University College to obtain loans from banks and other agencies and to frame appropriate By-laws for the purpose;
- (k) to demand and receive such fees as may from time to time be prescribed by Regulation; and
- (l) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University College:

provision of instruction or the conduct of examinations shall be done except with the prior approval of the University to which that University College is affiliated.

56. The Officers of a University College shall be the following: Officers of a University College.

- (1) the Director,
- (2) the Dean of each Faculty,
- (3) the Secretary,
- (4) the Librarian, and
- (5) the Treasurer.

57. (1) The first Director of a University College shall be appointed by the Minister. The Director.

(2) Every subsequent Director shall be appointed by the Commission from a panel of three persons recommended by the Board of Management of the University College. Where a member of the staff of a Higher Educational Institution is appointed Director, such Institution shall release the member of the staff so appointed to accept the post of Director.

(3) A Director shall, unless he vacates office earlier or is removed from office under subsection (4) of this section, hold office for a period of three years reckoned from the date of his appointment or until he completes his sixty-fifth year or until the University College is granted the status of a University by a University Order made under section 21, whichever event occurs earlier.

(4) A Director, not being the first Director appointed under subsection (1), shall be removed from office by the Chairman of the Commission on a vote of censure passed by not less than two-thirds of the total membership of the Board of Management, at a Special Meeting convened for the purpose.

(5) A Director who resigns or is removed from office or is unable to function as such by reason of the University College

Provided, however, that no such other act or thing affecting the

being granted the status of a University, may if he was a member of the staff of a Higher Educational Institution immediately prior to his appointment as Director, revert to his substantive post in such Higher Educational Institution, provided that he has not completed his sixty-fifth year.

Duties and functions of the Director.

58. (1) The Director shall be a full-time officer of the University College, and shall be the principal executive officer and the principal academic officer thereof. He shall be an ex officio member and Chairman of the Board of Management and the Academic Syndicate, and shall convene all meetings of the Board of Management and of the Academic Syndicate. He shall be entitled to convene, be present and speak at, any meeting of any other Authority or body of the University College, but shall not be entitled to vote at any such meeting unless he is a member of such other Authority or body.

(2) It shall be the duty of the Director, in accordance with such directions as may from time to time be lawfully issued to him in that behalf by the Board of Management, to ensure that the provisions of this Act and of any appropriate Instrument are duly observed, and he shall have and may exercise all such powers as he may deem necessary for the purpose.

(3) It shall be the duty of the Director to give effect, or to ensure that effect is given, to the decisions of the Board of Management and of the Academic Syndicate.

(4) The Director shall be the Accounting Officer of the University College.

(5) The Director shall be responsible for the maintenance of discipline within the University College.

(6) If the Director, by reason of leave, illness, absence from Sri Lanka, or other cause, is temporarily unable to perform the duties of his office, the Commission shall, within seven days of the occurrence of such inability, make such arrangements as it may think fit for carrying on the duties of the office. Until such arrangements are made, the Secretary shall carry on the routine duties of the office.

(7) If any vacancy occurs in the office of director, the Commission shall, within seven days of the occurrence of such vacancy, make such arrangements as it may think fit for carrying on the duties of the office, until a permanent appointment is made under section 57 (2). Until such arrangements are made, the Secretary shall carry on the routine duties of the office.

59. (1) The Secretary of a University College shall be appointed by the Board of Management upon the recommendation of a Selection Committee, the composition of which shall be prescribed by Ordinance. He shall be a full time officer of the University College, and shall exercise, perform and discharge such powers, duties and functions as may be conferred or imposed on or assigned to him by this Act or by any appropriate Instrument. The Secretary.

(2) The Secretary shall be responsible for the custody of the records and the property of the University College.

(3) The Secretary shall be the ex officio secretary of the Board of Management and the Academic Syndicate.

(4) The Secretary shall be the Assistant Accounting Officer of the University College.

(5) The Secretary shall, subject to the direction and control of the Director, be responsible for the general administration of the University College and the disciplinary control of its non-academic staff.

60. (1) The Librarian of a University College shall be appointed by the Board of Management upon the recommendation of a Selection Committee, the composition of which shall be prescribed by Ordinance. He shall be a full time officer of the University College, and shall exercise, perform and discharge such powers, duties and functions as may be conferred or imposed on or assigned to him by this Act or by any appropriate Instrument. The Librarian.

(2) The Librarian shall, subject to the direction and control of the Director, be responsible for the administration of the library or the libraries of the University College.

The Treasurer. **61.** (1) The Treasurer of a University College shall be appointed by the Board of Management upon the recommendation of a Selection Committee, the composition of which shall be prescribed by Ordinance. He shall be a full time officer of the University College, and shall exercise, perform and discharge such powers, duties and functions as may be conferred or imposed on or assigned to him by this Act or by any appropriate Instrument.

(2) The Treasurer shall, subject to the direction and control of the Secretary, be responsible for the administration of the finances of the University College and maintain its accounts in such form and manner as may be prescribed by ordinance. He shall have the custody of the funds of the University College.

The Authorities of a University College.

62. The Authorities of a University College shall be the following:—

- (1) the Board of Management;
- (2) the Academic Syndicate;
- (3) the Faculty or Faculties; and
- (4) such other bodies as may be prescribed by Ordinance to be such Authorities.

The Board of Management,

63. (1) The Board of Management (hereinafter referred to as "the Board") shall consist of the following persons:—

- (i) the Director;
- (ii) the Dean of each Faculty ; and
- (iii) such number of members as is equal to the total number of members under paragraphs (i) and (ii) increased by three, appointed by the Commission from among persons who have rendered distinguished service in educational, professional, commercial, industrial, scientific or administrative spheres.

(2) The provisions of subsection (2), (3), (4), (5), (6), (7), (8) and (9) of section 44 of this Act shall apply to the Board, subject to

the modification that there shall be substituted—

- (a) for the expression " Vice-Chancellor ", the expression " Director ";
- (b) for the expression " Council", the expression "Board of Management",

wherever those expressions appear in those subsections.

(3) Subject to the provisions of this Act, the Board shall exercise, perform and discharge the powers, duties and functions conferred or imposed on or assigned to the Council of a University by section 45 of this Act, subject to the following modifications;—

- (a) there shall be substituted—
 - (i) for the expression "Council", the expression " Board ";
 - (ii) for the expression " University ", the expression " University College "; and
 - (iii) for the expression " Senate ", the expression " Academic Syndicate ",

wherever these expressions appear in that section; and

- (b) by the omission of—
 - (i) any reference to the Court, in that section; and
 - (ii) paragraphs (viii) and (xvi) of subsection (2) of that section.

64. (1) The Academic Syndicate shall consist of the following persons :— The Academic Syndicate.

- (a) the Director,
- (b) the Dean of each Faculty,
- (c) the Head of each Department of Study,
- (d) the Librarian,

- (e) two representatives nominated from among its members, by the Senate of each University to which the University College has been affiliated, and
- (f) two members, not being persons referred to in paragraphs (b) and (c), elected by the permanent teachers of each Faculty from among their number.

(2) Each nominated or elected member shall hold office as a member for a period of two years reckoned from the date of his nomination or election, as the case may be.

(3) The quorum for a meeting of the Academic Syndicate shall be one-fourth its total membership.

(4) Subject to the provisions of this Act, the Academic Syndicate shall exercise, perform and discharge the powers, duties and functions, conferred or imposed on or assigned to the Senate of a University by section 46 of this Act, subject to the following modifications:—

There shall be substituted—

- (i) for subsection (5) of that section, the following subsection:—
 - "(5) The Academic Syndicate shall, with the concurrence of each appropriate University have control and general direction of instruction, education, research and examinations in the University College";
- (ii) in subsection (6), in paragraph (i) thereof, for the expression "or the Faculties concerned", the expression "or the Faculties concerned and with the concurrence of each appropriate University";
- (iii) for the expression "Council", the expression "Board";
- (iv) for the expression "University", the expression "University College"; and

- (v) for the expression "Senate", the expression "Academic Syndicate".

65. (1) A University College shall have such Faculty or such number of Faculties as may be specified in the relevant University College Order.

Faculties of a University college.

(2) Each Faculty shall consist of the following persons:—

- (a) all Professors, Associate Professors, Senior Lecturers and Lecturers of the Departments of Study comprising the Faculty who have been confirmed in their appointments;
- (b) the Librarian or his nominee;
- (c) three representatives, nominated from among its ex officio members, by the corresponding Faculty of each University to which the University College has been affiliated;
- (d) one member, elected from among their number by the permanent Assistant Lecturers of the Faculty;
- (e) one member of the permanent staff imparting instruction in the Faculty, excluding those referred to in paragraphs (a) and (d), elected from among their number; and
- (f) two students elected by the students of the Faculty, from among their own number.

(3) The members elected under paragraph (f) of subsection (2) shall be excluded from the proceedings of any meeting relating to examinations and connected matters, and any such meeting shall, notwithstanding such exclusion, be deemed to have been duly held.

(4) Each nominated member shall hold office for a period of two years and each elected member for a period of one year reckoned from the date of his nomination or election, as the case may be,

(5) A Faculty of a University College shall exercise, perform and discharge the powers, duties and functions conferred or

imposed on or assigned to the Faculty of a University by section 48 (3) of this Act, subject to the modification that there shall be substituted for the expression " Senate ", the expression " Academic Syndicate", wherever that expression appears in that section.

Section 49 to apply, *mutatis mutandis*, to Dean of Faculty.

66. The provisions of section 49 shall, *mutatis mutandis*, apply to and in relation to the Dean of each Faculty of a University College.

Recommendation of establishment of Faculties and Departments of Study.

67. A University College may from time to time make recommendations to the Commission as to the establishment of such Faculties and Departments of Study as it may deem necessary for developing its teaching, research and extension programmes.

Section 51 to apply, *mutatis mutandis*, to the Head of each Department of Study.

68. The provisions of section 51 shall, *mutatis mutandis*, apply to and in relation to the Head of each Department of Study of a University College.

Sections 135, 136 and 137 to apply, *mutatis mutandis*, to Academic Syndicate, &c.

69. Subject to the provisions of this Act, the provisions of sections 135, 136 and 137 shall, *mutatis mutandis*, apply to and in relation to the Board, the Academic Syndicate and any other Authority or other body of a University College respectively :

Provided, however, that no By-law or Regulation pertaining to an academic matter shall be made except with the concurrence of the appropriate University.

interpretation.

70. For the purposes of this Part—

" academic matter" means any matter which is subject to the control and general direction of the Academic Syndicate; and

" appropriate University" means the University to which a University College has been affiliated for the purpose of providing instruction or conducting examinations prescribed for a degree, diploma or other academic distinction of such University.

PART X

APPOINTMENTS TO THE STAFF

71. (1) Subject to the provisions of subsection (2), every appointment to the staff of a Higher Educational Institution shall be made by the governing authority of such Institution, in accordance with the schemes of recruitment and the procedures for appointment prescribed by Ordinance.

Appointments to staff to be made by the governing authority.

(2) The Commission shall, in accordance with the schemes of recruitment and the procedures for appointment prescribed by Ordinance, make the following appointments to the staff of a Higher Educational Institution—

- (i) appointment to a post of officer, except where other provision has been specifically made under this Act in respect of that post;
- (ii) appointment to a post other than that of teacher, carrying an initial salary of not less than rupees nine thousand per annum or such other higher initial salary as the Commission may from time to time determine by Ordinance ; and
- (iii) appointment to such posts as may be prescribed by Ordinance, other than posts of teacher, involving the promotion of the appointee from one grade or class of post to another.

72. Every appointment to a post of teacher shall, in the first instance, be for a probationary period of three years, which period may be extended by the governing authority of the Higher Educational Institution to which such teacher is attached, by one year at a time for a further period not exceeding three years. Such appointment shall be subject to such requirement or conditions as to confirmation as may be provided in the appropriate schemes of recruitment prescribed by Ordinance.

Appointment to Post of teacher.

73. The holder of a post of teacher, who has been confirmed in his post, shall continue in that post until he has completed

Retirement of teachers.

his sixty-fifth year or if he completes his sixty-fifth year in the course of an academic year, until the last day of such academic year, and shall thereafter be deemed to have retired from service;

Provided, however, that the holder of any such post may, at any time, be suspended, pending an inquiry by the governing authority of the Higher Educational Institution to which such teacher is attached, for misconduct, inefficiency or dereliction of duty or be dismissed or compulsorily retired, if found guilty after such inquiry, on a resolution adopted by such governing authority.

Appointment to a post other than that of teacher.

74. Every appointment to a post, other than that of teacher, shall in the first instance, be for a probationary period of three years, and shall thereafter be subject to confirmation by the Commission or by the governing authority of the Higher Educational Institution to which such appointment relates.

Retirement of persons other than teachers.

75. The holder of any post, other than that of teacher, shall continue in office until he completes his fifty-fifth year, and shall thereafter be deemed to have voluntarily retired from service:

Provided, however, that the holder of any such post may upon a written request made by him, be given by the Commission or by the governing authority of the Higher Educational Institution to which he is attached, extension of service for a period of one year at a time until he completes his sixtieth year, and shall thereafter be deemed to have retired.

Provided further that the holder of any such post may, at any time, be suspended, pending an inquiry by the Commission or by the governing authority of the Higher Educational Institution to which he is attached, as the case may be, for misconduct, inefficiency or dereliction of duty or be dismissed or compulsorily retired, if found guilty after such inquiry, on a resolution adopted by such Commission or governing authority.

76. Every holder of a post in the Commission or a Higher Educational Institution, who is dismissed or is compulsorily retired from his post or is otherwise punished for misconduct, inefficiency or dereliction of duty, may appeal against such dismissal or retirement or other punishment to the University Services Appeals Board whose decision thereon shall be final.

Appeal against dismissal, compulsory retirement or other punishment.

77. (1) At the request of a Higher Educational Institution, an officer in the Public Service may, with the consent of that officer, the Secretary to the Ministry by or under which that officer is employed, and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of that Higher Educational Institution for such period as may be determined by such Institution with like consent, or be permanently appointed to such staff.

Appointment of public officers and Local Government officers to the staff of a Higher Educational Institution.

(2) Where any officer in the public service is temporarily appointed to the staff of a Higher Educational Institution, the provisions of subsections (3) and (5) of section 26 of the State Industrial Corporations Act, other than paragraph (a) of subsection (3) of section 26, shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of a Higher Educational Institution, the provisions of subsections (4) and (5) of section 26 of the State Industrial Corporations Act shall, *mutatis mutandis*, apply to and in relation to him.

(4) At the request of a Higher Educational Institution, an officer or servant of the Local Government Service or any local authority may, with the consent of that officer or servant and the Local Government Service Advisory Board or authority, as the case may be, be temporarily appointed to the staff of that Higher Educational Institution for such period as may be determined by that Institution 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 that Higher

Educational Institution and the Local Government Service Advisory Board or authority.

successor vacates his office earlier, hold office for the unexpired portion of the term of office of his predecessor.

(5) Where a Higher Educational Institution 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 that Higher Educational Institution by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(2) A member of the Appeals Board may resign his office by writing under his hand addressed to the Minister, but shall continue in office until such time as his resignation has been accepted.

(3) If any member of the Appeals Board is, by reason of illness or other infirmity or absence from Sri Lanka or other cause, temporarily unable to perform the duties of his office, the Minister may appoint a fit person to act in the place of such member.

Transfers.

78. The holder of any post other than that of teacher, shall be transferable within the Higher Educational Institutions, from a Higher Educational Institution to the Commission or from the Commission to a Higher Educational Institution. Such transfers shall be made by the Commission which may for this purpose appoint a Transfer Board, the composition of which shall be prescribed by Ordinance.

(4) The Chairman and the other members of the Appeals Board shall be paid such remuneration or allowances as the Minister shall, in consultation with the Minister in charge of the subject of Finance, determine.

Interpretation.

79. In this Part "teacher" shall be deemed to include Librarian, Deputy Librarian and Assistant Librarian.

83. (1) The Chairman, and in his absence the Vice-Chairman, of the Appeals Board shall preside at all meetings of such Board. Proceedings of the Appeals Board.

(2) The quorum for a meeting of the Appeals Board shall be two members.

PART XI

UNIVERSITY SERVICES APPEALS BOARD

Establishment of the University Services Appeals Board.

80. There shall be established a University Services Appeals Board, (hereinafter referred to as the " Appeals Board "), which shall consist of the persons who are for the time being members of the Appeals Board under this Act.

(3) The procedure for the conduct of business at meetings of the Appeals Board shall be prescribed by Rules made by such Board.

Members of the Appeals Board.

81. The Appeals Board shall consist of a Chairman, a Vice-Chairman and another member, all of whom shall be appointed by the Minister.

84. (1) The staff of the Appeals Board shall consist of a Secretary and such other officers and employees as such Board may deem necessary for the proper and efficient conduct of its business, all of whom shall be provided by the Commission, from its staff or from the staff of any Higher Educational Institution. Staff of the Appeals Board.

Term of office of the members of the Appeals Board.

82. (1) Every member of the Appeals Board, including the Chairman, shall, unless he vacates office earlier, hold office for a term of five years reckoned from the date of his appointment, and unless removed from office, be eligible for re-appointment:

(2) The staff of the Appeals Board shall be subject to the disciplinary control of that Board.

(3) It shall be the duty of the Commission—

Provided, however, that if any member vacates his office prior to the expiry of his term, his successor shall, unless such

(a) to make payments to the members of the Appeals Board as determined under section 82 (4);

- (b) to pay the salaries and wages of the staff of the Appeals Board ; and
- (c) to provide such other facilities as the Board may require for the efficient exercise, performance and discharge of its powers, duties and functions.

Protection for action taken under this Act, &c., or on the direction of the Board.

85. (1) No suit or prosecution shall lie—

- (a) against the Appeals Board for any act which in good faith is done or purported to be done by the Appeals Board under this Act, or any appropriate Instrument; or
- (b) against any member of the Appeals Board or of the staff thereof for any act which in good faith is done or purported to be done by him under this Act or any appropriate Instrument, or on the direction of the Appeals Board.

(2) Any expense incurred by the Appeals Board in any suit or prosecution brought by or against the Appeals Board before any court shall be paid out of the Fund of the Commission and any costs paid to, or recovered by, the Appeals Board in any such suit or prosecution shall be credited to that 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 which is done or purported to be done by him under this Act or any appropriate Instrument, or on the direction of the Appeals Board, shall, if the court holds that the act was done in good faith, be paid out of the Fund of the Commission, unless such expense is recovered by him in such suit or prosecution.

(4) No writ against person or property shall issue against a member of the Appeals Board in any action brought against the Appeals Board.

Powers, duties and functions of the Appeals Board.

86. The Appeals Board shall have and may exercise the following powers, duties and functions:—

- (a) to conduct investigations into appointments and promotions alleged to have been made to the

staff of the Commission and to Higher Educational Institutions in contravention of the schemes of recruitment and the procedures for appointment in force at the time such appointments or promotions were made;

- (b) to consider appeals from employees of the Commission or any Higher Educational Institution, who have been dismissed, compulsorily retired, or otherwise punished against such dismissal, compulsory retirement or other punishment;

- (c) to consider appeals from employees of the Commission who were employees of the old University or any Higher Educational Institution, relating to compensation payable to employees of the old University under section 142 of this Act; and

- (d) to convey to the Chairman of the Commission or the governing authority of the Higher Educational Institution concerned, as the case may be, the decisions arrived at after considering such appeals or conducting such investigations.

87. A decision made by the Appeals Board in the exercise, performance and discharge of its powers, duties and functions under section 86 shall be final, and where remedial action has to be taken in consequence of such a decision, the Chairman of the Commission or the governing authority of the Higher Educational Institution concerned, as the case may be, shall implement such decision.

A decision of the Appeals Board to be final.

88. The Appeals Board may make Ordinances in respect of all such matters as it may deem necessary to enable it to effectively exercise, perform and discharge its powers, duties and functions under this Act.

Power of the Appeals Board to make Ordinances.

PART XII

UNIVERSITIES PROVIDENT FUND

Interpretation of this Part of this Act.

89. In this Part of this Act—

"age of retirement" in relation to a contributor—

- (a) who is the holder of a post of teacher in a Higher Educational Institution, means sixty-five years ; and
- (b) who is the holder of any other post in a Higher Educational Institution or a member of the staff of the Commission, means the age at which he ceases to be in the employment of such Higher Educational Institution or the Commission, as the case may be;

" contributor " means any member of the staff of the Commission or a Higher Educational Institution who is a contributor to the provident fund ;

" earnings " means earnings as defined in the Employees' Provident Fund Act;

" Fund " in relation to—

- (a) the Commission means the Fund of the Commission established under section 10 of this Act; and
- (b) a Higher Educational Institution means the University Fund established under section 99 of this Act;

" provident fund " means the provident fund established by the Commission under this Part of this Act;

"salary" means the emoluments of the substantive post -or appointment held by any contributor and includes any such allowances as may by Ordinance be declared to constitute part of his salary; and

" teacher" includes Librarian, Deputy Librarian and Assistant Librarian.

90. The Commission shall establish a fund which shall be called and known as the Universities Provident Fund.

Establishment of the Universities Provident Fund.

91. Ordinances may be made by the Commission for the regulation, administration and management of the provident fund and for all matters incidental to or connected with such fund, for which no express provision is made in this Act, and such Ordinances shall conform to the requirements of the Employees' Provident Fund Act.

Regulation of the Provident Fund.

92. (1) Every member of the staff of the Commission or a Higher Educational Institution, except in such cases as may be prescribed by Ordinance, shall, from the date of his employment on such staff, contribute to the provident fund by means of equal monthly deductions from his salary, an amount equal to ten per centum of his earnings; and the Commission or the Higher Educational Institution shall, in addition, out of its Fund, at the same time contribute to the provident fund in respect of every contributor, a sum equal to fifteen per centum of the earnings of that contributor, or such other sum as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

Contributions to the Provident fund

(2) The Secretary of the Commission shall open and keep a general account for the provident fund and a separate account in respect of each contributor to that provident fund. All contributions made by a contributor to the provident fund and all contributions made by the Commission or the Higher Educational Institution to the provident fund in respect of that contributor shall be placed to the credit of a separate account of that contributor in the provident fund.

(3) The amount lying to the credit of the account of a contributor shall, subject to the provisions of any Ordinance made in that behalf, accumulate at compound interest at a rate to be fixed by the Minister in consultation with the Minister in charge of the subject of Finance until the day on which that contributor ceases to be in the

employment of the Commission or the Higher Educational Institution and the account of that contributor shall be closed on that date.

Payment out of the provident fund.

93. (1) When the account of any contributor is closed as provided in section 92 (3), the Secretary of the Commission shall, subject to the provisions of section 94, pay to that contributor the full amount lying to the credit of his account in the provident fund, together with the accumulated interest thereon.

(2) Where a contributor, before he has completed his age of retirement, ceases to be employed by the Commission or a Higher Educational Institution either on account of ill health or incapacity or on account of the abolition of the post in which he is employed, or voluntarily leaves the service of such Commission or Higher Educational Institution, the Secretary of the Commission shall, subject to the provisions of section 94, pay to that contributor the full amount lying to the credit of his account in the provident fund together with the accumulated interest thereon at the date on which he ceased to be so employed, or on the date on which he voluntarily left the service of such Commission or Higher Educational Institution, as the case may be.

(3) Where a contributor, before he has completed his age of retirement, is dismissed or compulsorily retired from the service of the Commission or a Higher Educational Institution, the Secretary of the Commission shall, subject to the provisions of section 94, pay to the contributor the full amount lying to the credit of his account in the provident fund, together with the accumulated interest thereon, up to the date of his dismissal or compulsory retirement, as the case may be.

(4) Where a contributor dies while in the service of the Commission or a Higher Educational Institution, the Secretary of the Commission shall, subject to the provisions of section 94, pay the full amount lying to the credit of his account in the provident fund, together with the accumulated interest thereon, to the estate of the deceased contributor or to the person or persons lawfully entitled to such amount.

94. Notwithstanding anything in the preceding provisions of this Part and without prejudice to any other right or remedy, the amount of any loss or damage sustained by the Commission or a Higher Educational Institution by reason of the dishonesty or negligence of a contributor at any time during the period of his employment by such Commission or Higher Educational Institution and payments due on any loan taken by the contributor from the Commission or a Higher Educational Institution or the Government, as the case may be, shall be a first charge upon the amount lying to the credit of the account of that contributor in the provident fund; and such amount may be deducted at the time when any payment is made in accordance with the provisions of section 93.

Deductions prior to payment from the provident fund.

95. Notwithstanding anything in the preceding provisions of this Part and without prejudice to any other right or remedy, where the full amount lying to the credit of a contributor in the provident fund is not paid to him within a period of three months from the date on which his account was closed, the amount lying to his credit shall accumulate compound interest at such rate as determined for the purpose of section 92 (3) up to the last day of the month preceding that in which the full amount lying to the credit of his account is paid:

Unpaid provident fund to accumulate compound interest in certain cases.

Provided that such interest shall not be paid in cases where the delay in the payment of such amount to such contributor was due to any fault of the contributor.

96. Notwithstanding anything in , any written law other than this Act, the moneys lying to the credit of a contributor in the provident fund shall not at any time be attached, sequestered or seized in execution of the decree or process of any court.

Certain assets of contributor exempt from seizure in execution.

97. The Minister may, in consultation with the Minister in charge of the subject of Finance, establish a pension scheme and a widows' and orphans' pension fund as an alternative, or in addition, to the provident fund established by the Commission under this Part. Ordinances may be made by the Commission for the regulation, administration and management of such pension scheme and such widows' and orphans' pension fund.

Establishment of pension scheme and widows' and orphans' pension fund.

PART XIII

FINANCIAL PROVISIONS

Financial year.

98. The financial year of a Higher Educational Institution shall be the same as the financial year of the Government.

The University Fund.

99. (1) Each Higher Educational Institution shall have a fund to be called the University Fund, into which shall be paid—

- (a) fees to be paid to the Higher Educational Institution in accordance with the provisions of any appropriate Instrument;
- (b) income from endowments;
- (c) moneys provided by Parliament and disbursed by the Commission as grants in aid of Higher Educational Institutions; and
- (d) all other moneys belonging to the Higher Educational Institution from whatsoever source derived.

(2) Particulars of each sum of money paid into the University Fund shall within one month of such payment be submitted by the principal executive officer of the Higher Educational Institution concerned to the Commission for its information.

Grants in aid of Higher Educational Institutions.

100. (1) The Deputy Secretary to the Treasury shall, as soon as may be practicable after the commencement of each financial year, pay to a Higher Educational Institution such sums of money as may be provided by Parliament by way of annual appropriation, supplementary vote or otherwise as a grant or grants in aid of such Higher Educational Institution.

(2) All moneys paid to a Higher Educational Institution under the preceding subsection shall be applied or expended by such Higher Educational Institution for all or any of the purposes authorized by this Act or any appropriate Instrument.

101. It shall be the duty of the Bursar of a University or Open University or the Treasurer of a University College, as the case may be—

- (a) to keep the accounts of such University, Open University or University College in such form and manner as may be prescribed by Ordinance;
- (b) to receive all moneys paid into the University Fund and to credit such moneys to the proper heads of accounts;
- (c) to make all authorized payments; and
- (d) to prepare for the governing authority such triennial estimates as are required by the Commission, the annual financial appropriations of the ensuing financial year, and any supplementary estimate under section 105 :

Provided, however, that income derived from grants made for specific purposes or from endowments for specific objects, shall be separately accounted for in the accounts of the University, Open University or University College, as the case may be, and that no payment shall be made from such income for the general purposes of such University, Open University or University College, or for any purposes or objects other than those for which such grants or endowments were respectively made.

102. The triennial estimates and the annual appropriations of a University, Open University or University College, as the case may be, prepared under paragraph (d) of section 101 shall be considered by the governing authority before such date as may be prescribed by Ordinance. Such governing authority may make such alterations in such estimates and appropriations as it thinks fit and shall submit them to the Commission together with the accounts of the University, Open

Governing authority to consider triennial estimates and annual appropriations.

University or University College, as the case may be, for the last completed financial year.

The Commission to consider triennial estimates and annual appropriations.

103. The triennial estimates and annual appropriations of a University, Open University or University College, as the case may be, and its annual accounts shall be considered by the Commission, and it shall be lawful for the Commission by resolution, to adopt or amend such estimates and appropriations as it thinks fit.

Transfer of moneys.

104. The Commission shall return the triennial estimates and annual appropriations of a University, Open University or University College, as the case may be, to the governing authority of that University, Open University or University College, together with any resolutions passed under the preceding section and that governing authority shall thereupon accept such estimates and appropriations as adopted or amended by the Commission:

Provided, however, that subject to the provisions of subsection (2) of section 100, such governing authority may, with the concurrence of the Commission, transfer moneys assigned under one head of expenditure to any other head ;

Provided further, that every such transfer shall be reported by the principal executive officer of that University, Open University or University College, as the case may be, to the Commission as soon as possible thereafter.

Supplementary estimates.

105. In case of necessity and in order to meet unforeseen expenditure, it shall at any time be lawful for the Bursar of a University or Open University or the Treasurer of a University College, as the case may be, to prepare supplementary estimates of expenditure and for the governing authority of that University, Open University or University College, to pass such estimates :

Provided, however, that such supplementary estimates shall be forwarded to the Commission to be submitted to the Minister together with the annual appropriations for the ensuing year;

Provided further, that such supplementary estimates shall not exceed

the grant voted by Parliament for the financial year and no financial liability of a recurrent nature shall be incurred without the prior approval of the Minister, given with the concurrence of the Minister in charge of the subject of Finance.

106. (1) Each Higher Educational Institution shall prepare an annual statement of accounts and statistics relating to its activities in such form and manner and containing such particulars as the Commission may specify from time to time.

Annual statement of accounts and statistics.

(2) The books of accounts of a Higher Educational Institution shall be kept in the office of that Institution.

107. (1) (a) Each Higher Educational Institution shall have its accounts audited each year by the Auditor-General and, 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.

(b) The accounts of a Higher Educational Institution for each financial year shall, within four months after the closure of that financial year, be submitted by its principal executive officer, to the Auditor-General for audit.

(2) The Auditor-General and any person assisting the Auditor-General in the audit of the accounts of a Higher Educational Institution, shall have access to all such books, records, deeds, agreements, vouchers and other documents of that Institution as the Auditor-General may consider necessary for the purpose of the audit and shall be furnished by that Institution and its officers with such information within their knowledge as may be required for such purpose.

(3) For the purpose of meeting the expenses incurred by him in auditing the accounts of a Higher Educational Institution, the Auditor-General shall be paid from the University Fund of that Institution, such remuneration as the Minister may determine with the

concurrence of the Minister in charge of the subject of Finance. Any remuneration received from a Higher Educational Institution by the Auditor-General shall, after deducting 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) For the purpose 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.

(5) The provisions of Article 154 of the Constitution shall apply to and in relation to the audit of the accounts of a Higher Educational Institution by the Auditor-General.

(6) (a) The Auditor-General shall disallow every item of the accounts which is in his opinion irregular or contrary to law and surcharge the same on the officer, teacher or employee making or authorising the making of such payment, and shall charge against any officer, teacher, or employee any sum which ought to have been, but is not brought into account by such officer, teacher or employee, and the Auditor-General shall in each such case, certify the amount due from such person.

(b) Before certifying any surcharge or disallowance against any officer, teacher or employee of a Higher Educational Institution under paragraph (a), the Auditor-General shall notify such person of such proposed surcharge or disallowance and inform such person of his right to make

representations or be heard against such surcharge or disallowance, and fix a time and place for the hearing and inquiry into such representations not less than fourteen days from the date of despatch of such notice and, upon completion of such hearing and inquiry, the Auditor-General shall record the same and make his decision thereon giving the reasons for such decision, and inform such person and the Registrar of that University or Open University or the Secretary of the University College, as the case may be, of the same.

(c) Any person aggrieved by the decision of the Auditor-General may, within fourteen days from the communication to such person of such decision, appeal therefrom to the Commission:

Provided, however, that any person who, upon being informed of the proposed surcharge or disallowance by the Auditor-General, refuses or neglects to attend or take part in any inquiry or hearing before the Auditor-General, as to such surcharge or disallowance under paragraph (b) shall not be entitled to appeal to the Commission under this paragraph.

(d) Upon receipt of any appeal under paragraph (c), the Commission shall consider such appeal and—

- (i) if, in the circumstances of the case, it considers it fair and equitable that such surcharge or disallowance should be remitted, make such order; or
- (ii) vary or confirm the amount of such surcharge or disallowance ; and
- (iii) make an order as regards the costs incurred by the Auditor-General in respect of such surcharge or disallowance and inform such person and the Registrar of the University or Open University or the Secretary of the University College, as the case may be, and the Auditor-General, of such decision.

(e) Where a surcharge or disallowance against any person has been certified by the Auditor-General, such certification or such

certification varied as regards the amount, by the Commission under sub-paragraph (ii) of paragraph (d) shall be prima facie proof of the matters stated therein.

- (f) Where—
- (i) an appeal has been confirmed by the Commission under paragraph (d); or
- (ii) no right of appeal is available to any person under the proviso to paragraph (c),

the principal executive officer or a person authorized by such officer in writing, shall, where no payment or an agreement to pay has been made within three months of such surcharge' or three months of the date of communication of the decision of the Commission, institute in a court of competent jurisdiction, against the person against whom such surcharge or disallowance has been certified, an action for the recovery of the amount so certified to be recoverable, together with the costs thereon.

Auditor-General's report.

108. (1) The Auditor-General shall examine the accounts of each Higher Educational Institution 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 financial position of that Higher Educational Institution; 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 that Higher Educational Institution.

(2) The Auditor-General shall transmit his report in respect of a Higher Educational Institution, to that Institution and to the Commission.

(3) The report of the Auditor-General referred to in subsection (2) shall be considered by the governing authority of that Higher Educational Institution and after such consideration, that Higher Educational Institution shall, within three months of the transmission of such report to the Higher Educational Institution and to the Commission, inform the Auditor-General of the steps taken or proposed to be taken with regard to the matters pointed out in such report.

109. The accounts of a Higher Educational Institution for each financial year shall, when audited, be published in the Gazette.

Publication of audited accounts.

110. Each Higher Educational Institution shall within three months of the receipt by it of the Auditor-General's report in respect of each year, transmit to the Minister and to the Commission such report with any comments made thereon by its governing authority together with the statement of accounts to which the report relates, and the Minister shall cause copies thereof to be tabled in Parliament before the end of the year next succeeding the year to which such accounts and report relate, and the principal executive officer of that Higher Educational Institution shall attend and answer any questions arising therefrom before the Public Accounts Committee of Parliament.

Annual accounts and Auditor-General's report to be transmitted to Minister.

111. The provisions of subsections (3), (4) and (7) of section 10, and the provisions of section 12, of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to, and in relation to, the audit of the accounts of any Higher Educational Institution.

Certain provisions of the Public Corporations (Financial Control) Act to apply.

PART XIV

STUDENTS ASSEMBLIES AND ASSOCIATIONS

112. (1) Each Higher Educational Institution shall have a Student Assembly consisting of student representatives elected from among the persons who are for the time being students of that Higher Educational Institution.

Student Assembly.

(2) Every election to the Student Assembly shall be conducted by secret ballot at the commencement of each academic year, by such person or persons as may be nominated by the principal executive officer of the Higher Educational Institution concerned.

(3) The term of office of a Student Assembly shall expire at the end of the academic year in which the Student Assembly was elected.

Office-bearers of Student Assembly.

113. (1) Each Student Assembly shall elect from among its members a Chairman, a Vice-Chairman, a Secretary, and a Junior Treasurer who shall be the office-bearers of the Student Assembly.

(2) Each Student Assembly shall have a Senior Treasurer who shall be a teacher nominated by such Assembly and whose nomination has been approved by the principal executive officer of the Higher Educational Institution to which such Assembly belongs.

(3) Each Student Assembly may for the purpose of conducting its business appoint such Standing Committee or Committees as may be prescribed by Ordinance:

Provided, however, that the Chairman or the Secretary of any Student Assembly shall not be a member of any such Standing Committee or Committees.

Student Assembly to have no affiliation.

114. A Student Assembly shall have no affiliation with any organization or body outside the Higher Educational Institution to which such Assembly belongs.

Recognition of certain unions, societies and other associations.

115. (1) A Higher Educational Institution may, with the concurrence of the Commission, recognize any union, society or other association of students of that Institution, established for the sole purpose of furthering academic or social objectives, provided that the membership of such union, society or other association consists entirely of students of that Institution.

(2) Subject to the provisions of section 117, the governing authority of the Higher Educational Institution concerned may prescribe by By-law, the mode of

registration of unions, societies and other associations recognized under subsection (1), their functions, the mode of conducting elections for the appointment of their office-bearers, and the duties and functions of such office-bearers.

116. The governing authority of the Higher Educational Institution concerned may from time to time allocate to the Student Assembly, or to any union, society or other association of such Institution recognized under section 115, such sums of money as may be deemed necessary by such governing authority, for their approved activities.

Governing authority to allocate money to Student Assembly, for approved activities.

117. The Commission shall by Ordinance prescribe—

The Commission to prescribe constitution, duties and functions of Student Assembly and its office-bearers.

- (i) the duties and functions of the Student Assembly;
- (ii) the number of student representatives constituting each Student Assembly and their mode of election;
- (iii) the Standing Committee or Committees which a Student Assembly may appoint, and the duties and functions of such Committee or Committees;
- (iv) the duties and functions of the Chairman, the Vice-Chairman, the Secretary and the Junior Treasurer of the Student Assembly;
- (v) the purpose or the purposes for which the funds allocated to the Student Assembly and any union, society or other association under section 116 shall be utilized ; and
- (vi) the form and the manner in which the accounts of the Student Assembly and any union, society or other association shall be maintained and audited.

118. (1) If any Student Assembly or union or society or other association of a Higher Educational Institution conducts itself in a manner, which, in the opinion of the principal executive officer of that Institution, is detrimental or prejudicial to

Suspension or dissolution of a Student Assembly, union, society or other association.

the good name of that Institution, or acts in contravention of this Act or any appropriate Instrument, such principal executive officer may suspend or dissolve such Student Assembly, union, society or other association, as the case may be.

(2) Where any Student Assembly has been dissolved under subsection (1), the principal executive officer may, subject to the provisions of section 112, fix a date for the purpose of electing a new Student Assembly. Such new Student Assembly shall hold office until the end of the academic year in which it was elected.

PART XV

APPLICATION OF THE HOUSING AND TOWN IMPROVEMENT ORDINANCE

Application of Chapter 600 to areas within the precincts or in proximity to the precincts of a Higher Educational Institution.

119. (1) Notwithstanding anything in the Housing and Town Improvement Ordinance it shall be lawful for the Minister on the recommendation of the Commission and in consultation with the Minister in charge of the subject of Local Government, if he deems it expedient so to do in order to preserve the amenities of the precincts of a Higher Educational Institution, to declare by Notification published in the Gazette, that Chapter I of Part II of that Ordinance shall apply, subject to the modifications specified in subsection (2) of this section, to any area of land within the precincts or in proximity to the precincts of such Higher Educational Institution specified in such Notification, to which the said Ordinance does not otherwise apply, as if such area were an area comprised within the limits of a local authority.

(2) Upon the publication of any Notification under subsection (1) of this section, the said Chapter shall apply accordingly, subject to the following modifications:—

- (i) the words " principal executive officer " shall be substituted for the word " Chairman", wherever the latter word occurs therein,

- (ii) the following section shall be substituted for section 7 thereof:—

" Circumstances in which approval or consent may be refused. **7.** The principal executive officer of a Higher Educational Institution shall not refuse—

- (a) to approve any plan, drawing, or specification of any building; or
- (b) to consent to any alteration in any building,

unless the building or the alteration of the building is of such nature as to be likely, in his opinion, to injure the amenities of the precincts of the Higher Educational Institution or unless the application for such approval or consent fails to comply with any requirement made under section 8. ";

- (iii) the following paragraph shall be substituted for paragraph (a) of section 8 thereof:—

"(a) the submission of plans, drawings, and specifications in such form and containing such particulars as may be prescribed by the principal executive officer; ";

- (iv) the following paragraph shall be substituted for paragraph (b) of section 8 thereof:—

" (b) the amendment of any plan, drawing or specification so submitted so as to bring it into accordance with such form or so as to contain any such particulars; ";

- (v) in paragraph (e) of section 8 thereof, the words " this Chapter " shall be substituted for the words " this Ordinance ";

(vi) the following paragraph shall be substituted for paragraph (c) of subsection (1) of section 13 thereof:—

"(c) execute any building operation in contravention of any of the provisions of this Chapter;"

(vii) the following subsection shall be substituted for subsection (2) of section 13 thereof:—

"(2) In any case in which any person is convicted under this section, the Magistrate may, on the application of the principal executive officer, make a mandatory order requiring such person or the owner of the building, or both, within a time limited in the order, to demolish the building in question or to alter it so as not to injure the amenities of the precincts of the Higher Educational Institution, and in the event of such mandatory order not being complied with, may authorize the principal executive officer to demolish, alter or otherwise deal with the building in such a manner as to secure compliance with the order and any expenses thereby incurred shall be recovered upon an order made by the Magistrate in the same manner as a fine imposed by him and upon recovery shall be paid to the principal executive officer of the Higher Educational Institution. "

(viii) the following subsection shall be substituted for subsection (1) of section 15 thereof:—

"(1) No building constructed after the commencement of this Ordinance shall be occupied, except by a caretaker, until the principal executive officer has given a certificate that

such building as regards construction, drainage and in all other respects, does not injure the amenities of the precincts of a Higher Educational Institution.; and

(ix) the reference to the tribunal of appeal in section 16 thereof shall be deemed to be a reference to the District Court having jurisdiction in the district in which the said area is situated.

(3) The exercise of any of the powers conferred on the principal executive officer of a Higher Educational Institution under the provisions of this section shall be subject to the consent of its governing authority, and if such principal executive officer refuses to approve any plan, drawing or specification of any building or to consent to any alteration in any building within the said area on the ground that it will injure the amenities of the precincts of the Higher Educational Institution, the Higher Educational Institution shall make compensation to any person for any loss or damage he may sustain in consequence of such refusal; and any person aggrieved by the failure of the Higher Educational Institution to make such compensation or to make adequate compensation, may appeal to the District Court having jurisdiction in the district in which such area is situated, and the decision of the District Court on any such appeal shall be final and conclusive.

PART XVI

**APPLICATION OF THE GOVERNMENT
QUARTERS (RECOVERY OF
POSSESSION) ACT**

120. (1) The provisions of the Government Quarters (Recovery of Possession) Act shall—

Application of Government Quarters (Recovery of Possession) Act to University quarters.

(a) apply to University quarters subject to the modifications set out in subsection (2); and

(b) be deemed at all times to have been, and to be, an implied condition of the occupation by persons of University quarters.

(2) The provisions of the Government Quarters (Recovery of Possession) Act, in their application to University quarters are modified as follows :—

PART XVII

GENERAL PROVISIONS

(i) the words "University quarters" shall be substituted for the words "Government quarters" wherever those words appear in that Act;

(ii) in section 9 thereof, for the definition of—

(a) "competent authority", there shall be substituted the following definition:—

"competent authority" means the Secretary of the Commission, or the Registrar of a University or the Secretary of a University College, as the case may be, authorized by the Secretary of the Commission to be a competent authority for the purposes of the Act'; and

(b) "Government quarters" there shall be substituted the following definition:—

"University quarters" means any building, room or other accommodation occupied or used for the purposes of residence which is provided by or on behalf of the Commission or University or University College to any person, and includes any land or premises in which such building or room or accommodation is situated.'

121. A person shall be disqualified from being appointed to, or from being a member of, the Commission, the Appeals Board, or any Authority or other body of a Higher Educational Institution—

(a) if he is an undischarged bankrupt or insolvent; or

(b) if he is convicted of any offence involving moral turpitude; or

(c) if he is, under any law in force, found or declared to be of unsound mind; or

(d) 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, other than his contract of employment, made by or on behalf of any Higher Educational Institution.

Disqualification from being members of the Commission, the Appeals Board or any Authority or other body of a Higher Educational Institution.

122. All members and the staff of the Commission and of the Appeals Board, and all members of the staff of each Higher Educational Institution shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Members and staff of Commission and Appeals Board and staff of Higher Educational Institutions deemed to be public servants.

123. The Commission, the Appeals Board, and each Higher Educational Institution 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 Commission, Appeals Board and each Higher Educational Institution to be a scheduled institution within the meaning of the Bribery Act.

124. There shall be established a Committee of Vice-Chancellors and Directors for the purpose of considering all matters of common interest to the Universities or University Colleges and for advising the Commission on such matters.

Committee of Vice-Chancellors and Directors.

Questions as to validity of elections, appointments, &c.

125. If any question arises as to whether any person has been duly elected, appointed, nominated or co-opted as, or as to whether any person is entitled to be, a member of any Authority or other body of a Higher Educational Institution, the question shall be referred to the Commission whose decision thereon shall be final.

Vacancies or defects not to invalidate resolutions or proceedings,

126. No act, resolution or proceeding of the Commission, the Appeals Board or any Authority or other body of a Higher Educational Institution shall be invalidated merely by reason of the existence of a vacancy or of vacancies among its members, or any defect or defects in the appointment of such member or any member or members thereof being disqualified under section 121.

Gifts, &c.

127. The Commission, the Appeals Board or any Higher Educational Institution shall not grant any bonus or make any gift or division of money, other than a death gratuity, to or between any of its members, except in accordance with this Act or any appropriate Instrument.

No person or body other than a University to grant or confer degrees.

128. (1) Notwithstanding the provisions of any other written law, no person, institution, corporation, or professional or other body, other than a University, Open University or the Buddha Sravaka Dharmapithaya established under the Buddha Sravaka Dharmapithaya Act, shall grant or confer on any person or persons any degree or other academic distinction whatsoever;

Provided, however, that academic distinctions may be granted by professional bodies or research institutes by arrangement with such University and the concurrence of the Commission.

(2) Where there is a contravention of the provisions of subsection (1) by any person, institution, corporation or professional or other body, such person or the governing authority, proprietor, director or other person or persons responsible for the management of such institution, corporation or professional or other body shall be guilty of an offence and shall, on conviction by a Magistrate, be liable to a fine of two hundred and fifty rupees.

129. (1) The Minister may in concurrence with the Minister in charge of the subject of Education, by Order published in the Gazette, transfer to a Higher Educational Institution, any institution, school or college maintained and managed by the Government, together with any movable property therein, and any immovable property of such institution, school or college may, by a like Order by the Minister in charge of the subject of Lands, be vested in such Higher Educational Institution.

Transfer of other institutions to a Higher Educational Institution.

(2) Upon the publication of such Order, the movable and the immovable property of such institution, school or college shall vest in the Higher Educational Institution with effect from the date specified in that Order.

130. (1) On or after such date as may be appointed for the purposes of this section by the Minister by Order published in the Gazette, no educational institute other than a Higher Educational Institution shall be established or maintained by or under a name which contains the word "University".

Restrictions on the use of the word "University".

(2) Where there is a contravention of the provisions of subsection (1) in respect of any educational institute, the governing authority or the proprietor of that institute shall be guilty of an offence and shall on conviction by a Magistrate, be liable to a fine of one hundred rupees for each day after the date appointed under subsection (1) of this section, for which the word "University" was used as its name or part of its name.

(3) Subsections (1) and (2) of this section shall not apply to the Buddha Sravaka Dharmapithaya established under the Buddha Sravaka Dharmapithaya Act.

PART xvni

SPECIAL PROVISIONS

131. (1) Where the presence of any person in the precincts of a Higher Educational Institution is, in the opinion of the governing authority of that Institution, undesirable, the principal executive officer of that Institution, after giving such person

Prohibition of certain persons from entering precincts of a Higher Educational Institution.

an opportunity of being heard, may, with the consent of that governing authority, by writing under his hand served on such person, prohibit such person from entering or remaining within such precincts or within such part thereof as may be specified in such writing. Such prohibition shall be and remain in force until revoked by such principal executive officer with the consent of such governing authority.

(2) A certificate under the hand of the principal executive officer of a Higher Educational Institution to the effect that any person named in the certificate has been prohibited, in accordance with the provisions of subsection (1) from entering or remaining within the precincts of a Higher Educational Institution or any specified part thereof, shall be received and accepted by any court as evidence of the facts stated in such certificate until the contrary is proved-

(3) A document purporting to be a certificate issued by the principal executive officer of a Higher Educational Institution and signed by him shall be received in evidence and shall, until the contrary is proved, be deemed to be a certificate issued by such officer under subsection (2).

Penalty for offence of disobeying prohibition.

132. Any person who is prohibited under the provisions of section 131 from entering or remaining within the precincts of a Higher Educational Institution or part thereof and who, without reasonable cause, enters or remains within such precincts or part thereof in contravention of such prohibition, shall be guilty of an offence, and shall, on conviction by a Magistrate, be liable to a fine of one hundred rupees in respect of each day or part thereof on which he has entered or during which he has remained within such precincts or part thereof.

Offences under section 131 to be cognizable and bailable.

133. An offence under section 131 shall be cognizable and bailable within the meaning of the Code of Criminal Procedure Act.

PART XIX

STATUTES, BY-LAWS, REGULATIONS AND RULES

134. (1) Subject to the provisions of Statutes. this Act, and of the Orders and Ordinances made thereunder. Statutes may be made by the Court of a University in respect of all or any of the following matters:—

- (a) where not otherwise provided for, the filling of vacancies in, and the convening of, any Authority or other body;
- (b) the determination of the degrees, diplomas, certificates and other academic distinctions to be conferred;
- (c) the conferment of honorary degrees;
- (d) the institution and award of fellowships, scholarships, exhibitions, bursaries, medals and other prizes for which funds or property may in any manner whatsoever be provided;
- (e) all matters for which, under the provisions of this Act, Statutes are authorized or required to be made; and
- (f) all matters which, under the provisions of this Act are to be, or may be, prescribed by Statute,

(2) Every Statute shall, when assented to by the Court, be published in the Gazette and shall come into force on such date as may be specified therein.

135. (1) Subject to the provisions of By-laws. this Act, and of the Orders, Ordinances and Statutes made thereunder, By-laws may be made by the governing authority of a Higher Educational Institution in respect of all or any of the following matters;—

- (a) the courses of study prescribed for degrees, diplomas, certificates and other academic distinctions;

- (b) the conditions subject to which students shall be admitted to courses of study and examinations prescribed for degrees, diplomas, certificates and other academic distinctions and shall be eligible for such academic distinctions;
- (c) the fees to be charged for courses of study, examinations, residence and the award of degrees, diplomas, certificates and other academic distinctions;
- (f) the conditions of residence and the discipline of students;
- (e) where not otherwise provided for, the constitution, powers, duties and functions and the terms of membership of any Authority, or other body;
- (f) all matters connected with the election of representatives to the various Authorities and other bodies;
- (g) the conditions and mode of appointment, duties and emoluments of examiners, and the conduct and maintenance of standards of examinations;
- (h) all matters for which, under the provisions of this Act or of the Ordinances and Statutes made thereunder. By-laws are authorized or required to be made ; and
- (i) all matters which, under the provisions of this Act or of the Ordinances and Statutes made thereunder, are to be, or may be, prescribed by or provided for by By-laws.

(2) No By-law shall be made by the governing authority of a Higher Educational Institution in respect of any matter relating to, or connected with, teaching in, or the examinations of, that

Intitution, unless a draft of such By-law has been prepared and submitted to such governing authority by the Senate or the Academic Syndicate, as the case may be, of that Institution.

(3) Every By-law made by the governing authority of a Higher Educational Institution shall come into force on such date as shall be specified therein.

136. Subject to the provisions of this Act and of the Orders, Ordinances, Statutes and By-laws made thereunder. Regulations may be made by the Senate or the Academic Syndicate, as the case may be. of a Higher Educational Institution in regard to any academic matter and for the amendment, variation or revocation of an existing Regulation.

In this section " academic matter " means any matter which is subject to the control and general direction of such Senate or Academic Syndicate.

137. (1) Subject to the provisions of this Act, and of any appropriate Instrument, the Commission, the Appeals Board, and any Authority or other body of a Higher Educational Institution may make Rules—

- (a) for all matters which, under the provisions of this Act or of any appropriate Instrument, are to be, or may be, prescribed by Rules;
- (b) for all matters in respect of which, under the provisions of this Act or of any appropriate Instrument, Rules are required or authorized to be made; and
- (c) for all other matters solely concerning the Commission, the Appeals Board, or any Authority or other body of a Higher Educational Institution and not provided for by this Act or any appropriate Instrument.

(2) Any Rule made by the Commission, by the Appeals Board, or by any Authority or other body of a Higher Educational

Institution, may at any time, be amended, added to, varied or rescinded by a like Rule made by such Commission, Appeals Board, Authority or other body.

Higher Educational Institution as the Commission may determine, and shall as nearly as may be possible, continue to function as an Institute under such Higher Educational Institution in accordance with the Statute under which such Institute was established.

PART XX

TRANSITORY PROVISIONS

Certain provisions applicable upon the repeal of Act No. 1 of 1972.

***139.** (1) Upon the repeal of the University of Ceylon Act, No. 1 of 1972, each Campus specified in Column I below shall be deemed to be a University established by Order made under section 21 of this Act, and having the name and style specified in the corresponding entry in Column II below, and accordingly, all the provisions of this Act shall, *mutatis mutandis*, apply to and in relation to such University—

<i>Column I</i>	<i>Column II</i>
Colombo	. University of Colombo, Sri Lanka;
Peradeniya	. . University of Peradeniya, Sri Lanka;
Vidyodaya	. . University of Sri Jayewardenepura, Sri Lanka;
Vidyalankara	. University of Kelaniya, Sri Lanka;
Katubedda	. . University of Moratuwa, Sri Lanka;
Jaffna	. University of Jaffna, Sri Lanka.

(2) Every Faculty of such Campus shall be deemed, for all purposes, to be a Faculty of such University.

(3) Every Department of Study of such Faculty shall be deemed, for all purposes, to be a Department of Study therein.

Institutes established under Act No.1 of 1972 deemed to be established under this Act.

140. (1) Upon the repeal of the University of Ceylon Act, No. 1 of 1972, every Institute established or deemed to be established under that Act and in existence on the day immediately preceding the date of such repeal shall be attached to such

(2) For the purposes of this section, Statutes made under the aforesaid Act in relation to each Institute shall be deemed to be Ordinances made by the Commission under section 18 of this Act.

(3) The Commission shall, within one year of the date of such repeal, determine the structure and composition of such Institute.

141. Subject to the provisions of this Act and of any appropriate Instrument, the following provisions shall apply as from the date of coming into operation of this Act—

Effect of repeal of Act No. I of 1972.

(1) All teachers, officers and other employees in the service of the old University on the day immediately preceding the date of coming into operation of this Part of this Act, who have not reached their respective ages of retirement shall be deemed to be teachers, officers and other employees in the service of such Higher Educational Institution as the Commission may determine and shall hold their offices with as nearly as may be the same status and on the same terms, including terms relating to salaries or wages, the termination of employment allowances or other benefits as they had or enjoyed in the service of the old University.

(2) The Commission may within one year of the date of coming into operation of this Part of this Act, review the appointments held by teachers, officers and other employees of the old University who were in the service of that University on the day immediately preceding the date of coming into operation of this Part of this Act, and order the abolition of such posts which are found to be superfluous or the termination of services of such persons as had been appointed to their respective posts in contravention of the schemes of

* Section 138, repealing the University of Ceylon Act, No. 1 of 1972, is omitted.

recruitment which were in force at the time when such appointments were made, with due notice given to them.

(3) All debts, obligations and liabilities incurred and all contracts, deeds, bonds, agreements and other instruments executed or entered into, and all matters and things engaged to be done by, with, or for, the old University prior to the date of coming into operation of this Part of this Act shall be deemed to have been incurred, executed, entered into or engaged to be done by, with or for, a Higher Educational Institution established under this Act. The Commission shall indicate to the parties concerned the appropriate Higher Educational Institution to which such debt, obligation contract, deed, bond, agreement or other instrument relates.

(4) (a) All suits, prosecutions, appeals or other legal proceedings civil and criminal which have been instituted in any court or tribunal by or against the old University prior to the date of coming into operation of this Part of this Act shall be deemed to have been instituted by or against the Commission.

(b) Where such suit, prosecution, appeal or other legal proceeding civil and criminal has been instituted, the Commission may make an application to court for an order to substitute the appropriate Higher Educational Institution to which such suit, prosecution, appeal or other legal proceeding relates, and the court shall make such order as it thinks fit. Where an application is made under the provisions of this paragraph, the provisions of the Civil Procedure Code relating to substitution shall, *mutatis mutandis*, apply to and in relation to such application.

(5) (a) All decrees or orders made by a competent court or tribunal in favour of or against, the old University prior to the date of coming into operation of this Part of this Act shall be deemed to have been made in favour of or against, the Commission.

(b) Where such decrees or orders have been made by a court, the Commission may make an application to that court for an order to substitute the appropriate Higher

Educational Institution to which such decree or order relates, and the court shall make such order as it thinks fit. Where an application is made under this paragraph, the provisions of the Civil Procedure Code relating to substitution shall, *mutatis mutandis*, apply to and in relation to such application.

(6) The University Provident Fund of the old University together with the interest thereon as at the date of coming into operation of this Part of this Act shall be transferred to the Universities Provident Fund established under this Act, and every contributor to the University Provident Fund on the day immediately preceding the date of coming into operation of this Part of this Act and every person who was a contributor to that Fund until the date of his voluntary retirement under the repealed Act, No. 1 of 1972, shall be deemed to be a contributor to the Universities Provident Fund, Where any contributor who ceased from the date of his voluntary retirement under the University of Ceylon Act, No. 1 of 1972, to contribute to the provident fund established under that Act becomes a contributor to the Universities Provident Fund under this Act, compound interest at the rate determined under section 46 (3) of that Act shall be deemed to have accrued to the amount lying to the credit of that person in such fund as from the date of such retirement until the date of coming into operation of this Part of this Act and accordingly such amount shall be credited to the account of that person in the Universities Provident Fund.

(7) All property, movable and immovable, which has been vested in, or legally purchased or acquired by, or leased to, or placed at the disposal of, or in any other manner transferred to the old University, or which is held in trust for the old University, or is in its possession or control at the date of coming into operation of this Part of this Act, shall be held by or in trust for the Commission or such Higher Educational Institution as the Commission shall determine, subject to the trusts, charges, liabilities, reservations, servitudes or other encumbrances and on the terms and conditions appertaining, attaching or applicable thereto at that date.

Special provisions relating to transferred members of staff of old University.

142. (1) Subject to the provisions of this Act and of any appropriate Instrument, the following provisions shall apply to teachers, officers and other employees of the old University after the date of coming into operation of this Part of this Act—

- (a) Where the post or office held by such teacher, officer or other employee is abolished under subsection (2) of section 141, the Higher Educational Institution to which such teacher, officer or other employee was attached shall pay him compensation for loss of employment. Such compensation shall be determined by the Higher Educational Institution concerned.
- (b) Any teacher, officer or other employee of the old University may, within two years of the date of coming into operation of this Part of this Act, retire from the service of the Higher Educational Institution to which he was attached, after his having given to such Institution at least two months' written notice of his intention to retire:

Provided that this paragraph shall not apply—

- (i) to a teacher, officer or other employee who has not been confirmed in his appointment ; or
- (ii) to a teacher, officer or other employee who, having availed himself of leave for study or other purpose, is under and agreement to serve the Higher Educational Institution, the old University or a University deemed to be established under the Higher Education Act, No. 20 of 1966*, for a specified period; or
- (iii) to an officer or other employee who has completed his fifty-fifth year.

(2) Where a teacher, officer or other employee of the old University has retired under the provisions of paragraph (b) of

subsection (1) of this section, the Higher Educational Institution concerned shall pay him by way of gratuity or retiring allowance, such compensation as might have been granted to him had his post been abolished under subsection (2) of section 141, and for the purpose of determining such gratuity or retiring allowance his service under the old University and under any one or more of its predecessors shall be deemed to be service to the Higher Educational Institution of which he was an employee at the time of retirement.

(3) Any teacher, officer or other employee of the old University who is dissatisfied with the compensation payable to him under subsection (1) or (2) of this section may appeal to the Appeals Board, whose decision thereon shall be final.

143. Notwithstanding anything to the contrary in any other provision of this Act, the following provisions shall apply for the purpose of enabling all such arrangements and measures to be made and taken as are necessary for the operation of this Act:—

Special provisions pending the establishment of a Higher Educational Institution under this Act.

- (a) The Commission shall be appointed by the President, and shall commence to function as from such date as may be specified by the Minister.
- (b) The first Secretary of the Commission shall be appointed by the Commission, and when so appointed—
 - (i) he shall commence to function as from such date as may be specified by the Commission; and
 - (ii) he shall exercise, perform and discharge in respect of the Commission all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument.

(c) Any officer or other employee of the old University may with the consent of that officer or other employee

* Repealed by Act No. 1 of 1972

and the principal executive officer of that University, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission, 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 that Commission and that Principal executive officer.

(d) The first Vice-Chancellor of every University deemed to be established under section 139 shall be appointed by the President and when so appointed—

(i) he shall commence to function as from the date of coming into operation of this Part of this Act;

(ii) he shall exercise, perform and discharge in respect of the University to which he is so appointed, all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument;

(iii) he may exercise, perform and discharge the powers, duties and functions of any or all the Authorities of the University to which he is so appointed until such time as such Authorities are duly constituted under this Act; and

(iv) he shall, unless he vacates office earlier, and subject to the provisions of section 34 (1) (b), hold office for a term of three years reckoned from the date of his appointment, and shall be eligible for re-appointment under section 34 (1) (a) for a further period of three years immediately succeeding the aforesaid period.

(e) The first Registrar of each University deemed to be established under section 139 shall be appointed by the Commission, and shall when so appointed exercise, perform and discharge in respect of the University to which he is so appointed, all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument.

(f) The first Bursar of each University deemed to be established under section 139, shall be appointed by the Commission, and shall, when so appointed, exercise, perform and discharge in respect of the University to which he is so appointed, all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument.

144. Notwithstanding anything in any other provision of this Act, the following provisions shall apply during the transitional period pending the establishment of a University under this Act for the purpose of enabling all such arrangements and measures to be made and taken as are necessary to enable such University to commence to function as such, and to carry out its objects, as early as possible after the date of its establishment:—

Special provisions pending the establishment of a University under this Act.

(a) The first Vice-Chancellor of the University shall be appointed by the President, and when so appointed—

(i) he shall exercise, perform and discharge all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument;

(ii) he may exercise, perform and discharge the powers, duties and functions of any or all the

Authorities of the University, until such time as such Authorities are duly constituted under the Act; and

(iii) he shall, unless he vacates office earlier, and subject to the provisions of section 34 (1) (b), hold office for a term of three years reckoned from the date of his appointment, and shall be eligible for re-appointment under section 34 (1) (a) for a further period of three years immediately succeeding the aforesaid period.

(b) The first Registrar of the University shall be appointed by the Commission, and shall, when so appointed, exercise, perform and discharge all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument.

(c) The first Bursar of the University shall be appointed by the Commission and shall, when so appointed, exercise, perform and discharge all such powers, duties and functions as are conferred or imposed on or assigned to him under this Act or any appropriate Instrument.

For the purpose of this section, "transitional period" means the period commencing on the date on which a University Order is published under this Act, and ending on the date on which such Order comes into force.

Removal of difficulties.

145. In connexion with the preliminary arrangements for the functioning of a University deemed to be established under section 139 or for the establishment of a Higher Educational Institution under sections 21, 22, 23 and 24, either generally or with reference to any special matter, the Minister may on the recommendation of the Commission and by Order published in the Gazette, issue all such directions as he may deem necessary

with a view to providing for any special or unforeseen circumstances, or to determining or adjusting any question or matter for the determination or adjustment of which no provision or effective provision is made by this Act.

146. Notwithstanding anything to the contrary in section 139, the Commission shall have during the period of two years commencing on the date of coming into operation of this Part of this Act, the power to do any or all of the following things:—

Special provisions relating to the powers of the Commission.

(a) to determine the structure and composition of each Higher Educational Institution;

(b) to determine the Faculty or Faculties and the Departments of Study thereof to be assigned to each such Higher Educational Institution, and to assign the same ;

(c) to determine the subjects or disciplines of study to be provided or taught in each such Higher Educational Institution; and

(d) to transfer or re-allocate the staff, students, equipment, land, buildings and other facilities of the old University among such Higher Educational Institutions.

PART XXI

INTERPRETATION

147. In this Act, unless the context otherwise requires—

interpretation.

" administrative staff " means members of the staff of a Higher Educational Institution, who are not teachers, holding posts carrying an initial salary of not less than nine thousand rupees per annum or such other higher initial salary as the Commission may from time to time determine by Ordinance made under this Act;

" appropriate Instrument " means any Order, Ordinance, Statute, By-law, Regulation or Rule made in accordance with the provisions of this Act;

" By-law " means a By-law made by the governing authority of a Higher Educational Institution under this Act;

"governing authority " in relation to—

- (i) a University, means the Council of that University;
- (ii) an Open University, means the Council of that Open University, and
- (iii) a University College, means the Board of Management of that University College;

" Higher Educational Institution " means a University, Campus, Open University or University College established or deemed to be established under this Act;

" non-academic staff" means all the members of staff of a Higher Educational Institution who are not teachers;

" old University " means the University of Sri Lanka established under the University of Ceylon Act, No. 1 of 1972;*

" Order " means an Order made by the Minister under this Act;

" Ordinance " means an Ordinance made by the Commission or by the Appeals Board under this Act;

" other employee" means any person holding a post other than that of a teacher or officer in a Higher Educational Institution;

" President" means the President of the Democratic Socialist Republic of Sri Lanka•

" principal executive officer" in relation to—

- (i) a University, means the Vice-Chancellor of that University;
- (ii) an Open University, means the Vice-Chancellor of that Open University; and
- (iii) a University College, means the Director of that University College;

" recognized institution" means any institution recognized under section 25;

" Regulation" means any Regulation made by the Senate or the Academic Syndicate, as the case may be, of a Higher Educational Institution, under this Act;

" Rule " means any Rule made under this Act by the Commission, the Appeals Board, or an Authority or other body of a Higher Educational Institution;

" Statute " means any Statute made by the Court of a University under this Act;

" teacher " means a Professor, Associate Professor, Senior Lecturer, Lecturer and Assistant Lecturer, and the holder of any post declared by Ordinance to be a post, the holder of which is a teacher; and

" University" means a University established or deemed to be established under this Act.

* Repealed by Act No. 16 of 1978.

CHAPTER 603

URBAN DEVELOPMENT PROJECTS (SPECIAL PROVISIONS)

Act
No. 2 of 1980.

AN ACT TO PROVIDE FOR THE DECLARATION OF LANDS URGENTLY REQUIRED FOR CARRYING OUT URBAN DEVELOPMENT PROJECTS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[14th January, 1980.]

Short title.

1. This Act may be cited as the Urban Development Projects (Special Provisions) Act.

(ii) the carrying out of any work on any such land or in any land in any such area;

Declaration of lands urgently required for urban development projects.

2. Where the President, upon a recommendation made by the Minister in charge of the subject of Urban Development, is of opinion that any particular land is, or lands in any area are, urgently required for the purpose of carrying out an urban development project which would meet the just requirements of the general welfare of the People, the President may, by Order published in the Gazette, declare that such land is, or lands in such area as may be specified are, required for such purpose.

(iii) the implementation of such project in any manner whatsoever.

4. (1) The jurisdiction conferred on the Court of Appeal by Article 140 of the Constitution shall, in relation to any particular land or any land in any area in respect of which an Order under or purporting to be under section 2 of this Act has been made, be exercised by the Supreme Court and not by the Court of Appeal.

Power of Supreme Court to issue writs.

Restriction on remedies available upon a declaration made under section 2.

3. No person aggrieved by an Order made or purported to have been made under section 2 of this Act, or affected by or who apprehends that he would be affected by any act or any step taken or proposed to be taken under or purporting to be under this Act or under or purporting to be under any other written law, in or in relation to any particular land or any land in any area, shall be entitled—

(2) Every application invoking the Jurisdiction referred to in subsection (1) shall be made within one month of the date of commission of the act in respect of which or in relation to which such application is made and the Supreme Court shall hear and finally dispose of such application within two months of the filing of such application.

- (a) to any remedy, redress or relief in any court other than by way of compensation or damages;
- (b) to a permanent or interim injunction, an enjoining order, a stay order or any other order having the effect of staying, restraining, or impeding any person, body or authority in respect of—

5. Where the President makes an Order under or purporting to be under section 2 of this Act, the provisions of this Act shall apply to any application, action, proceedings or matter in relation to any particular land or any land in any area, pending in any court at the time of publication of such Order and whether or not such application, action, proceedings or matter had been instituted before or after the coming into force of this Act and accordingly—

Provisions relating to applications, actions, proceedings and matters pending in any court.

- (i) any acquisition of any such land or any land in such area;
- (a) the court shall be entitled to revoke, alter or modify any order previously made or to permit the

amendment of any pleadings or the taking of any steps by any party, or to make such orders as may be necessary, in order to comply with or to conform to the provisions of this Act;

(b) any party shall, notwithstanding the provisions of section 4 of this Act, be entitled to make any application referred to in that section before the expiry of a period of one month of the date of publication of such Order; and

(c) where any application invoking the jurisdiction vested in the Court of Appeal under Article 140 of the Constitution is pending in such Court at the time of publication of such Order, such application shall stand removed to the Supreme Court and the Supreme Court shall hear and finally dispose of such application within two months of the date of publication of such Order.

Powers of Supreme Court not to be affected by section 3,

6. Nothing contained in section 3 of this Act shall affect the powers which the Supreme Court may otherwise lawfully exercise in respect of any application made under Article f26 of the Constitution or in the exercise of the jurisdiction referred to in section 4 (I) of this Act.

Application of provisions of the State Lands (Recovery of Possession) Act.

7. (1) Where it becomes necessary for the Government or any person, body or authority, for the purpose of carrying out or assisting in the carrying out of any urban development project, to take possession of any particular land or any land in any area in respect of which an Order under or purporting to be under section 2 of this Act

has been published, it shall be lawful for the Government or any such person, body or authority, to take steps under the provisions of the State Lands (Recovery of Possession) Act, and accordingly—

(a) the expression "State land" as defined in such Act shall include any land vested in or belonging to any such person, body or authority or which such person, body or authority is entitled to dispose of; and

(b) the expression "competent authority" shall include such person or the principal executive officer of such body or authority.

(2) Every application under the State Lands (Recovery of Possession) Act, in respect of any particular land or any land in any area in respect of which an Order under or purporting to be under section 2 of this Act has been published, shall be finally disposed of within thirty days of the making of such application, and the court shall make all such orders as are necessary to ensure that all persons are ejected from that land within sixty days of the making of such application.

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

"land" includes land vested in or belonging to the State, the Land Reform Commission established under the Land Reform Law, the Commissioner for National Housing, any local authority or any other person, body or authority.

CHAPTER 10

UNITED NATIONS

No. 45 of 1968. AN ACT TO ENABLE EFFECT TO BE GIVEN TO CERTAIN PROVISIONS OF THE CHARTER OF THE UNITED NATIONS.

[14th December, 1968.]

Shorttitle.

1. This Act may be cited as the United Nations Act,

effectively applied, including (without prejudice to the generality of the preceding provisions of this subsection) provision for the apprehension, trial and punishment of persons offending against the regulations.

Measures under Article 41.

2. (1) If, under Article forty-one of the Charter of the United Nations* signed at San Francisco on the twenty-sixth day of June, Nineteen hundred and forty-five.(being the Article which relates to measures not involving the use of armed force) the Security Council of the United Nations call upon the Government of Sri Lanka to apply any measures to give effect to any decision of that Council, the Minister in charge of the subject of Foreign Affairs may by regulations make such provision as appears to him necessary or expedient for enabling those measures to be

(2) Every regulation made under the preceding provisions of this section shall, forthwith after it is made, be tabled in Parliament.

(3) Any expenses incurred by the Government of Sri Lanka in applying any such measures as are referred to in the preceding provisions of this section shall be defrayed out of moneys provided by Parliament for the purpose.

* Article 41 of the Charter of the United Nations :-

41. The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

CHAPTER 402

UVA YOUNG MEN'S BUDDHIST ASSOCIATION

Act AN ACT TO INCORPORATE THE UVA YOUNG MEN'S BUDDHIST ASSOCIATION,
 No. 18 of 1954. BADULLA.

[13th March, 1954.]

Short title. **1.** This Act may be cited as the Uva Young Men's Buddhist Association, Badulla, Act.

Incorporation of the Uva Young Men's Buddhist Association, Badulla. **2.** From and after the passing of this Act the president, vice-presidents, and members of the committee of management for the time being of the Uva Young Men's Buddhist Association, Badulla, and such and so many persons as now are members of the Uva Young Men's Buddhist Association, Badulla, 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 Uva Young Men's Buddhist Association, Badulla ", 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.

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 practical observance of Buddhism and the encouragement to Buddhists of living according to the principles of Buddhism,
- (c) the promotion of unity and co-operation among Buddhists, and
- (d) the advancement of the physical, intellectual and social welfare of members.

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, three vice-presidents, the honorary general secretary and honorary treasurer of the corporation and not less than fifteen other members elected in accordance with the rules in force for the time being of the corporation.

(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 Mr. S. A. Peeris, Mr. W. B. W. Welgolle, Mr. H. B. Attanayake, Mr. D. D. Jayasinghe, Mr. A. Gunapala, Mr. T. B. Jayasundera, Mr. D. B. Weerasinghe, Mr. W. A. Jinadasa, Mr. D. Ekanayake, Mr. W. J. Fernando, Mr. D. P. Witharne, Mr. B. H. Dhanapala, Mr. V. C. de Silva, Mr. H. E. Weeraratne, Mr. K. M. Gunatilake, Mr. D. K. P. B. Dissanayake and Mr. T. B. Naranpanawa.

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 may, at such a general meeting, be amended, added to, or repealed.

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 Act shall for all purposes be the rules of the corporation:

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 repealing any of the rules set out in such Schedule*.

Procedure for amendment of rules.

7. No rule in the Schedule* to this Act nor any rule hereafter passed at a general meeting, shall be amended, added to, 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.

Debts due by and payable to the association.

8. All debts and liabilities of the said Uva Young Men's Buddhist Association, Badulla, 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 Uva Young Men's Buddhist Association, Badulla, shall be paid to the said corporation for the purposes of this Act.

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 such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

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, 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.

11. 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 44

VAGRANTS

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO VAGRANTS.

Nos. 4 of 1841,
7 of 1873,
7 of 1889,
17 of 1889,
19 of 1889,
12 of 1891,
3 of 1894,
3 of 1904,
21 of 1919,
3 of 1930,
51 of 1941,
20 of 1947,

Act
No. 2 of 1978.

Short title.

Punishment of
persons
behaving
riotously or
disorderly in
the public
streets.

Persons who
are deemed idle
and disorderly
persons.

1. This Ordinance may be cited as the Vagrants Ordinance.

2.* Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine not exceeding five rupees :

Provided nevertheless that every person convicted four times of such conduct shall, for every subsequent offence, be punishable in the manner declared in the following section respecting idle and disorderly persons.

3.* (1) (a) Every person being able to maintain himself by work or other means, but who shall wilfully refuse or neglect so to do, and shall wander abroad or place himself in any public place, street, highway, court, or passage to beg or gather alms, or cause, or procure, or encourage any of his family so to do, excepting priests and pilgrims in performance of their religious vows, not being mendicants of the description mentioned in the paragraph (d) of the next succeeding section ;

(b) every common prostitute wandering in the public street or highway, or in any place of public resort, and behaving in a riotous or indecent manner ;

(c) every person wandering abroad or lodging in any verandah, outhouse, shed, or unoccupied building, or in any cart, vehicle, or other

[1st January, 1842.]

receptacle, without leave of the owner thereof, and not having any visible means of subsistence, and not giving a good account of himself;

(d) every person, without leave of the owner, defacing the side of any house or building or wall by fixing any placard or notice, or by any indecent or insulting writing or drawing thereon ;

(e) every person who in or upon any wharf, jetty, street, road, walk, passage, verandah, or other place situated within any proclaimed area and used by or accessible to the public, persistently and without lawful excuse follows, accosts, or addresses by words or signs any person against his will and to his annoyance,

shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees.

(2) A police officer may arrest without a warrant every person deemed to be an idle and disorderly person.

(3) In this section, " proclaimed area " means any area declared by the Minister by Order published in the Gazette, to be a proclaimed area for the purposes of this section.

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

Who are deemed to be rogues and vagabonds.

- 4.* (a) Every person convicted a second time of being idle and disorderly ;
- (b) every idle and disorderly person resisting any constable or police officer apprehending him ;
- (c) every person wilfully exposing his person in an indecent manner, or exhibiting any obscene print, picture, or other indecent exhibition, in any street, road, highway, or public place or elsewhere, to the annoyance and disgust of others ;
- (d) every person wandering abroad, or placing himself in any public place, street, highway, court, or passage, and endeavouring by the exposure of any wounds, deformities, leprosy, or loathsome diseases to obtain or gather alms ;
- (e) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions for himself or others, of any nature or kind, under any false or fraudulent pretences,

shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance, and shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, or to a fine not exceeding twenty rupees.

Who are deemed to be incorrigible rogues.

5. (a) Every person convicted a third time or more often of being idle and disorderly ; or
- (b) every person convicted a second time or more often of being a rogue and vagabond ; and
- (c) every person escaping out of any place of legal confinement before the expiration of the term for which he shall have been committed under this Ordinance,

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable to imprisonment at hard labour for any period not exceeding four months, and to corporal punishment not exceeding twenty-four lashes.

Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extry. No. 43/4 of 1979.07.02.

6. Every person convicted as an incorrigible rogue may, in addition to any punishment imposed by the preceding section be required also to give security for his good behaviour for one year after his discharge, and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months-

Incorrigible rogue may be required to give security for future good behaviour.

7. (1) The following persons, that is to say—

Soliciting and acts of indecency in public places.

- (a) any person in or about any public place soliciting any person for the purpose of the commission of any act of illicit sexual intercourse or indecency, whether with the person soliciting or with any other person, whether specified or not;
- (b) any person found committing any act of gross indecency, or found behaving with gross indecency, in or about any public place ;
- (c) any person found—

(i) in any public enclosure contrary to any local by-laws or regulations prescribing the use of such enclosures ; or

(ii) in any enclosure belonging to the State, without the permission of the person in charge thereof; or

(iii) within any private enclosure attached to any dwelling house, except upon the invitation of any inmate of the premises,

under such circumstances that it is reasonable to infer that he is there present for immoral purposes, unless he is able to explain his presence to the satisfaction of the court by which he is tried,

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, or to a fine not exceeding one hundred rupees, or to both.

(2) In any case in which any person who has been convicted of an offence under paragraph (a) of the last preceding subsection shall subsequently be convicted of another such offence, he shall, if a male, in addition to any other punishment to which he may be sentenced by the court, be liable, at the discretion of the court to -be whipped.

exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he or she is aiding, abetting, or compelling the prostitution of such person with any other person or generally, shall, unless the court is satisfied by evidence to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Female offender may be committed to house of detention.

8. In any case in which the offender against any of the provisions, whether of the last preceding section or any other preceding section of this Ordinance, is a female, the court may in its discretion direct, both in respect of any imprisonment to which she may be sentenced in the first instance and in respect of any imprisonment to which she may be sentenced in default of payment of a fine, that, instead of being imprisoned in one of the regular prisons of Sri Lanka, she shall be committed to any house of detention established under the Houses of Detention Ordinance, and there detained until the expiration of her sentence, and sections 5 and 6 of the said Ordinance shall apply to every such person so detained.

10. (1) In the following cases, that is to say :—

Detention of youthful bad characters.

- (a) where any person being a male between the ages of twelve and twenty-one has been convicted by a Magistrate of any offence under sections 3 (1) (e), 7, or 9 ;
- (b) where a Magistrate is satisfied that any person within the local limits of his jurisdiction, being a male between the ages aforesaid, is found habitually wandering about the streets and accosting persons therein, or in the company of disorderly or immoral persons or of reputed criminals, and that such person has no regular occupation, or no other occupation than that of professing to render casual services to persons requiring them,

Punishment of certain classes of incorrigible rogues.

9. (1) Any person who—
 (a) knowingly lives wholly or in part on the earnings of prostitution ;
 (b) systematically procures persons for the purpose of illicit or unnatural intercourse,

it shall be lawful to the Magistrate, after due inquiry into the antecedents, connections, and habits of such person, if he is satisfied that the offender is addicted to unnatural vice, or is otherwise of corrupt or immoral habits, either—

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable—

- (i) on summary conviction to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one hundred rupees, or to both ; or
- (ii) on conviction on indictment to imprisonment of either description for a period not exceeding two years, and if a male, in addition to any such imprisonment, if the court in its discretion directs, to be whipped.

(i) to require such person to execute a bond, with or without sureties, to the satisfaction of the Magistrate, to be of good behaviour for a period not exceeding twelve months, and subject to such conditions as the Magistrate may determine, and in default thereof, to commit such person to prison for a period not exceeding six months, there to be detained and employed at such productive labour as may be prescribed by prison rules ; or

(2) Every male person who is proved to live with, or to be habitually in the company of, a prostitute, and every person, whether male or female, who is proved to have

(ii) if after due inquiry into all the circumstances of the case, the Magistrate is satisfied that the offender is a person who ought not

to be allowed the option of giving security for good behaviour, or that he can be more appropriately and beneficially dealt with in manner hereinafter provided, to commit such person, if he is under sixteen years of age, to an approved school within the meaning of the Children and Young Persons Ordinance, or if he is over that age, to any institution established by law for the reclamation and industrial training of juvenile offenders, there to be detained for a period of not less than three years.

(2) If any such person is not already in custody, the Magistrate may enforce his attendance either by summons or warrant, as he may think fit.

(3) The Magistrate may direct the detention of any person so brought before him for the purpose of necessary inquiries, and may, if he shall so think fit direct a medical examination of such person.

(4) The Magistrate may at any time direct any person committed to prison under this section in default of finding satisfactory sureties to be released from prison on such sureties being forthcoming.

(5) The Minister may at any time direct that any person committed to an approved or certified school shall be transferred to any institution established by law for the reclamation and industrial training of juvenile offenders, or direct the release of any person detained either in such school or institution.

(6) When a Magistrate makes an order under subsection (1) (ii) of this section, the proceedings shall be submitted to the Court of Appeal, and the order shall not be executed unless it is confirmed by the Court of Appeal.

(7) If, when such proceedings are submitted, the Court of Appeal thinks that a further inquiry should be made, or additional evidence taken upon any point, the court may make such inquiry or take such evidence itself, or direct it to be taken by the Magistrate. Unless the Court of Appeal otherwise directs, the presence of the convicted persons may be dispensed with when such inquiry is made, or such evidence is taken.

(8) When the inquiry and the evidence, if any, are not made and taken by the Court of Appeal, the result of such inquiry and the evidence shall be certified to the Court of Appeal.

(9) In any case so submitted to the Court of Appeal, the court—

(a) may confirm the sentence, or pass any other sentence justified by law ; or

(b) may allow the conviction and convict the accused of any offence of which the Magistrate might have convicted him, or order a new trial on any other charge or on an amended charge ; or

(c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or if an appeal is presented within such period, until such appeal is disposed of.

(10) This section shall apply only within such defined areas as shall be specially appointed by the Minister by Order published in the Gazette.

11. (1) Every person, having the custody, charge, or care of a girl, who causes or encourages the seduction or prostitution or unlawful carnal knowledge of the said girl, shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

Causing, &c the seduction or prostitution or unlawful carnal knowledge of a girl.

(2) Without prejudice to the generality of subsection (1), a person shall, for the purposes of this section, be deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or become a prostitute or been unlawfully carnally known, if he has knowingly allowed the girl to associate with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) No person shall be liable to conviction under this section who as parent or guardian has given his consent to a girl living with any man as his wife.

Security by parent or guardian of girl-

12. (1) Where it is shown to the satisfaction of a Magistrate on the complaint of any peace officer at the instance of any probation officer that any girl is with the knowledge of her parent or guardian exposed to the risk of seduction or prostitution, or of being unlawfully carnally known, or is living a life of prostitution, the Magistrate may require the parent or guardian of such girl to show cause why he should not be ordered to execute a bond with or without sureties for the exercise of due care and supervision in respect of the girl-

(2) For the purposes of this section, a Magistrate shall have all the powers which are conferred on a Magistrate by sections 84 to 92, both inclusive, 93 and 94 of the Code of Criminal Procedure Act, in relation to securities for keeping the peace and for good behaviour and those sections shall apply, mutatis mutandis, to bonds executed or ordered to be executed under this section.

(3) Imprisonment for failure to execute a bond on the order of a Magistrate under this section shall be simple.

(4) No person shall be liable to execute a bond under the provisions of this section who as parent or guardian has given his consent to a girl living with any man as his wife.

(5) Where any girl, in respect of whom any person has been ordered to execute a bond under this section is removed for any period from the custody, care, or charge of such person under sections 13, 14, or 17, no action shall be taken to enforce the bond during the period of such removal, and if at any time thereafter the girl shall be restored to the custody, care, or charge of such person, the said bond shall remain of full force and effect,

Detention of girl in place of safety.

13. (1) Any peace officer may, on the complaint of a probation officer, remove to a place of safety to be selected by such probation officer any girl in respect of whom an offence under section 11 has been, or is reasonably believed by him to have been, committed.

(2) Any girl so removed to a place of safety may be there detained for a period not exceeding seven days, unless before the expiry of that time it has been decided that no charge will be made in respect of the said

offence, in which case the girl shall be released on such decision being reached, but otherwise she shall be brought before a Magistrate before the expiry of the said seven days and may be detained in the said place of safety until the Magistrate has made an order in relation to the girl under the next subsection.

(3) (a) Where it appears to a Magistrate that an offence has been committed under section 11 in respect of any girl who is brought before him and that it is expedient in the interests of the girl that an order should be made for her care and detention, he may, without prejudice to any other power, make such order as the circumstances may require for the care and detention of the girl until a charge has been made against some person in respect of the offence ;

(b) If any such charge is made against any person, the order may be extended until the charge has been determined by the conviction or discharge of the person charged, and

(i) in the case of his conviction, it may be further extended for a period not exceeding twenty-one days as the convicting Magistrate may direct; and

(ii) in the case of his discharge, it shall be forthwith void except with regard to anything lawfully done thereunder ;

(c) Any such order as is mentioned in subsections (2), (3) (a), or (3) (b) may be carried out notwithstanding that any person claims the custody of the girl.

14. (1) When any person having the custody, charge, or care of any girl has been— Disposal of girl by order of court

(a) convicted of an offence under section 11 in respect of the girl» or

(b) ordered to execute a bond in respect of the girl under section 12,

by a Magistrate, the Magistrate may, in his discretion, order that the girl be taken out of the custody, care, or charge of the person so convicted or bound over, and be delivered into the custody of a relative of the girl or some other fit person or society,

approved and named by the Magistrate, until she attains the age of sixteen years or for any shorter period.

(2) Before any such order is made, the consent and ability of such relative or other person or society to undertake such custody shall be proved to the satisfaction of the Magistrate.

(3) Any such order may be from time to time renewed, varied, or revoked by the Magistrate who made the same, or by any other Magistrate within whose jurisdiction the girl resides, either of his own motion or on the application of any person.

(4) If the girl has a parent or legal guardian, no order shall be made under this section unless the parent or legal guardian—

- (a) has been convicted of the offence ; or
- (b) is proved to the satisfaction of the Magistrate making the order to have been party or privy to the offence ; or
- (c) has been ordered to execute a bond in respect of the girl under section 12 ; or
- (d) cannot be found.

(5) Every order under this section shall be in writing, and may be made in the absence of the girl.

(6) The Minister may at any time discharge any girl from the custody of any person or society into whose custody she has been delivered under this section either absolutely or on such conditions as he may approve.

(7) It shall be lawful for the Minister to make rules in relation to girls delivered into the custody of any person or society under this section, and to the maintenance of such girls, and to the duties of such persons or societies with respect to such girls.

(8) All rules made under this Ordinance shall be laid, as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament and shall be brought before Parliament at the next subsequent meeting held thereafter by a motion that the said rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are

disapproved by Parliament such rules shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder ; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

15. (1) Any person or society into whose custody a girl is delivered by order under section 14 shall, whilst the order is in force, have the like control over the girl as if such person or society were the parent of the girl, and shall be responsible for the maintenance of the girl, who shall continue to be in custody of such person or society notwithstanding that she is claimed by her parent or any other person.

(2) Every person who—

- (a) knowingly assists or induces, directly or indirectly, any girl to escape from the person or society into whose custody she has been so delivered ; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or society, any girl who has so escaped, or knowingly assists any such harbouring, concealment, or prevention,

shall on summary conviction thereof be liable to a fine not exceeding one hundred rupees, " or to imprisonment of either description for any term not exceeding three months.

(3) On the complaint or application of the person or society into whose custody any girl has been delivered by order under section 14, the Magistrate making the order of delivery may make a further order on the parent or other person liable to maintain the girl to contribute any specified sum not exceeding fifteen rupees a month for that purpose, and to pay the same in such manner as the Magistrate may direct to the person or society into whose custody the girl is delivered.

(4) Every such order of maintenance shall be in writing and shall be enforceable in like manner as if the girl had been ordered to be sent to an approved or certified school under the Children and Young Persons Ordinance, and also by a further order for

control and maintenance of girl delivered into custody of any person or society by order of court

the attachment and payment to the person named by the Magistrate of any pension or income due to the parent or other person liable to maintain the girl, including any pension or income due to him from the State. Such further order shall be a full authority to the person by whom such pension or other income is payable to make the payment ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first-mentioned person.

Offences to be non-cognizable and bailable.

16. Offences under sections 11 and 15 of this Ordinance shall be deemed non-cognizable and bailable within the meaning of the Code of Criminal Procedure Act.

Search warrant.

17. (1) If it appears to a Magistrate on information on oath laid by any probation officer that there is reasonable cause to suspect that an offence has been or is being committed in respect of any girl, he may issue a warrant authorizing all or any peace officers to search for such girl, and if it is found that an offence has been or is being committed in respect of her, to take her to and detain her for a period not exceeding seven days in a place of safety selected by the said probation officer and named in the warrant until she can be brought before a Magistrate.

(2) Any peace officer authorized by warrant under this section to search for any girl may enter (if need be by force) any house, building, or other place specified in the warrant and may remove the girl therefrom.

(3) It shall not be necessary in any information or warrant under this section to specify the name of the girl.

Sanction of Attorney-General for prosecution, &c.

18. No prosecution shall be instituted for an offence against section 11, and no complaint shall be made under section 12, without the sanction of the Attorney-General in writing.

Protection of peace officers and probation officers.

19. No proceedings civil or criminal shall be instituted against any peace officer or probation officer for any act bona fide done or omitted to be done in pursuance of any of the powers or duties conferred or imposed upon him by this Ordinance.

Officers neglecting their duty.

20. In case any grama seva niladhari, constable, or other peace officer aforesaid shall neglect his duty in anything required of him by this Ordinance, he shall be liable for

every such offence to a fine not exceeding fifty rupees, or to imprisonment not exceeding two calendar months, with or without hard labour, at the discretion of the court.

21. In case any person shall hinder, disturb, or molest any grama seva niladhari, constable, or other peace officer in the execution of this Ordinance, or shall be aiding, abetting, or assisting therein, or shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any rogue and vagabond, and shall be thereof convicted, every such offender shall, for every such offence, be liable to a fine not exceeding thirty rupees, or to imprisonment with or without hard labour for any period not exceeding four months ; and

Persons obstructing officers

every person who shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any incorrigible rogue, shall be liable to a fine not exceeding fifty rupees or to imprisonment for any period not exceeding six months with or without hard labour.

22. All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender, and in default of payment every such offender shall be imprisoned at hard labour for the space of one month for every ten rupees of such fine which shall remain unsatisfied, and in like proportion for every lesser sum, provided that such imprisonment on any one conviction shall never exceed the term of twelve months ; and it shall also be lawful for any court before whom any such offender may be convicted to order, at its discretion, the whole or any part of such fine or penalty, when recovered, to be paid over or applied to the use and benefit of the persons who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

Fines to be levied in distress.

Informer's share-

23. No prosecution shall be instituted against any person for offences under sections 2, 3, 4, 5, 6, 20 and 21 of this Ordinance after the expiration of one calendar month next subsequent to the date of the offence.

No prosecution to be instituted after one month.

Sworn
statement by
person leaving
Sri Lanka.

24. (1) A sworn statement made by a person about to leave Sri Lanka before—

- (a) a Justice of the Peace ; or
- (b) any police officer not below the rank of a Sub-Inspector ; or
- (c) the customs officer for the time being in charge of the Colombo passenger jetty, not being below the rank of a charges officer,

taken in the presence of the person accused under such circumstances that he has a 'full opportunity of asking questions of the person making the statement, and signed by such person, may, if the person making the statement has left Sri Lanka, be given in evidence against the person accused on any charge under section 3 (1) (e).

(2) It shall be the duty of the Justice of the Peace or other person before whom any such statement is made, before tendering it for the signature of the person making it, to read it over to such person in the presence of the accused, and to explain the statement to the accused, and upon it being signed by the person making it, to certify that the requirements of this section have been complied with.

(3) A statement produced in court and purporting to be certified under this section shall be prima facie evidence of the facts therein stated ; but the court may require the attendance of any person present when such statement was taken, for the purpose of examination with respect thereto.

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

- (a) " girl " means a girl under the age of sixteen years ;
- (b) " guardian ", in relation to a girl, includes any person who, in the opinion of the court having cognizance of any case or matter relating to the girl, has for the time being charge of or control over the girl;
- (c) " legal guardian ", in relation to a girl, means a person appointed according to law to be her guardian by deed or will or by order of a court of competent jurisdiction ;
- (d) " peace officer " includes police officers and grama seva niladharis appointed by a Government Agent in writing to perform police duties ;
- (e) " place of safety " means any hospital, institute, house, home, or other suitable place, the occupier of which is in the opinion of the probation officer after due inquiry a person of respectable character, and is willing to receive a girl temporarily ;
- (f) " probation officer " means any person appointed to be a probation officer under the provisions of the Probation of Offenders Ordinance.

CHAPTER 534

VEHICLES

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO VEHICLES
 Nos. 4 of 1916, OTHER THAN MOTOR VEHICLES.
 13 of 1920,
 29 of 1921,
 20 of 1927,
 17 of 1933,
 22 of 1935,
 61 of 1939,
 38 of 1945,
 3 of 1946,
 29 of 1947,
Act
 No. 60 of 1961.

[1st January, 1917.]

CHAPTER I

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Vehicles Ordinance.

Exclusion of mechanically propelled vehicles other than tram cars from certain provisions of the Ordinance. 2. Chapters II, III, VII and VIII of this Ordinance shall not apply to mechanically propelled vehicles other than tram cars.

property of the State, or of any Municipal Council, Urban Council, or Town Council.

4. On receipt of such application the proper authority shall satisfy himself that the said declaration is true, and that the vehicle in respect of which the licence is applied for is in good order and fit to be hired for the purpose intended, and thereafter shall issue to the owner of such vehicle a licence in one or other of such forms as may be prescribed. Proper authority to issue licence after inquiry.

CHAPTER II

LICENSING OF VEHICLES

Application for a licence. 3. The owner of every vehicle which shall be used for the purpose of conveying or transporting by land passengers, goods, produce, or merchandise from any place to any other place for hire or reward, shall subscribe and present to the proper authority of the province, district, town or village area within which such vehicle is ordinarily used or to be used a declaration of ownership in one or other of such forms as may be prescribed, and shall apply for a licence in one or other of such forms as may be prescribed authorizing such owner to use such vehicle for the purpose or purposes set out in the licence. Such declaration shall be exempt from stamp duty. This section shall not apply to any vehicle which is the

5. (1) Every such licence, or every renewal thereof, shall be made out in foil and counterfoil and on the counterfoil shall be affixed a stamp of such value as the Minister with the concurrence of the Minister in charge of the subject of Finance may, from time to time, direct by notification in the Gazette, such stamp to be supplied by the party applying for the licence; Licences to be made out in foil and counterfoil.

Provided that such value shall not exceed the rate applicable to such vehicle mentioned in the second column of the Schedule.

(2) Every such licence and every renewal thereof shall be in force until the thirty-first day of December of the year for which the same shall be granted ;

Provided that if on or before the thirty-first day of December in the year for which

[§ 30. 60 of 1961.]

the licence was granted the owner shall have applied for a new licence under section 13, the licence shall continue in force until the thirty-first day of March of the succeeding year, unless a licence for such succeeding year shall have been earlier issued ;

Provided further that if a new licence is issued before the expiration of the year of the existing licence, such existing licence shall cease to be in force, and the new licence shall be deemed to be in force from the date of its issue ;

Provided further that in the case of any vehicle licensed for the first time after the thirtieth day of June in any year, only half of the said annual stamp duty shall be payable in respect of such year.

(3) Each licence shall state the number of persons authorized to be carried, and in the case of carts the weight to be carried, and the number of animals to be carried therein.

6. The proper authority may, if to him it shall appear necessary, cause reference to be made to any grama seva niladhari or other person to ascertain the truth of any statement in any declaration of ownership, and to delay granting the licence until the result of such reference is ascertained.

7. The proper authority shall keep a book in which shall be registered all the particulars stated in the licences granted by him ; and every entry in such register shall be numbered in accordance with the number of the licence to which it has reference. Any authenticated copy or extract from such register shall be deemed prima facie evidence of the facts therein stated.

8. (1) At the time when any vehicle is licensed or when the licence issued in respect thereof is renewed, the proper authority shall issue to the owner of that vehicle a plate to be fixed upon the vehicle as hereinafter provided. The plate shall have legibly painted or marked on it a number corresponding to the number mentioned in the licence of the vehicle ; and the year in which the licence is granted or renewed shall be indicated on the plate which shall be in a form to be approved by the Minister, by means of figures, letters, or colours of a size, form, or kind, also to be approved by the Minister. And no plate, figures, letters, or colours, not so approved, shall be used.

(2) The plate shall be fixed upon the vehicle in such a manner that the year indicated as in subsection (1) and the number shall be at all times plainly and distinctly visible.

(3) In the case of carts, the plate shall be fixed on the off or right side of the frame, opposite to and within the circumference of the wheel and in front of the axle, but the Minister may by regulation made under section 16 direct that in any specified part of Sri Lanka the plate may be fixed in some other position.

(4) The plate shall be kept and continued so fixed so long as the licence shall remain in force:

Provided that when any plate has during the period of the licence become indistinct or defaced by use or otherwise, the owner shall return the same to the proper authority, and shall be entitled, on making a payment of twenty-five cents, to receive a fresh plate, and the above provisions shall apply to such fresh plate. The proper authority may, on his being satisfied by affidavit that any plate has been lost or stolen, issue a fresh plate on the application of the owner of the vehicle and on payment by him of twenty-five cents, and the provisions of this section shall apply to such fresh plate.

(5) Any owner who fails to return as aforesaid any plate which has become indistinct or defaced shall be guilty of an offence, and shall be liable to the punishment prescribed by section 40 of this Ordinance.

9. The licence or any renewal thereof shall be retained by the owner of the vehicle. Custody of licence.

10. (1) In case any vehicle licensed as aforesaid shall be transferred to another by sale, gift, or otherwise, the transferor and transferee shall notify the same to the proper authority within fourteen days from the date of such transfer, in order that such transfer may be entered in the register and a new licence issued to the transferee, in exchange for the licence issued to the transferor. Notice of transfer to be given.

References to grama seva niladharis,

Register of licences.

Extract there from prima facie evidence.

Number plate to be issued at the time when any vehicle is licensed.

(2) Such new licence shall be on unstamped paper, and shall have the same duration as the licence issued to the transferor.

Notice to be given of vehicle destroyed or rendered unfit for use.

11. If any licensed vehicle shall be destroyed or rendered wholly unfit for use, the owner thereof shall within fourteen days notify the fact to the proper authority, in order that the number may be erased from the register, and shall at the same time return to the proper authority the licence issued for such vehicle, together with the plate placed and fixed upon such vehicle.

Proper authority may issue licence in place of one lost or destroyed.

12. The proper authority may, on his being satisfied by affidavit that any licence has been lost or destroyed by accident or otherwise, issue an exemption of the licence on the application of the owner of the vehicle.

New licence for the succeeding year.

13. (1) The owner of any licensed vehicle may apply to the proper authority on or before the thirty-first day of December of the year for which the licence was issued for the issue of a new licence for the following year, and when so applying shall return to the proper authority the licence held by him.

(2) On the receipt of such application the proper authority—

(a) shall issue a new licence and a plate in respect of such licence as provided for in section 8, and such plate shall be fixed on the vehicle as provided for in the said section; or

(b) if for any reason a new licence cannot be issued at once, shall deliver to the applicant a certificate in such form as may be ordered by the proper authority or prescribed by regulation under the Ordinance to the effect that a new licence has been applied for.

(3) On the issue of the new licence the owner shall return to the proper authority at the time of such issue the plate issued to him in respect of the expiring licence.

(4) If no such application shall have been made, the owner shall return to the proper authority the licence, together with the plate

issued to him in respect of such licence, within seven days after the expiration of the period for which the same were issued.

(5) The proper authority may dispense with the requirements of this section as to the return of the licence and the plate or either of them, if the non-return of such licence or the plate has been accounted for to his satisfaction.

14. No new licence shall be issued for any previously licensed vehicle under the provisions of this Ordinance unless and until the licence previously issued for such vehicle has been returned by the owner to the proper authority, or the non-return of such licence has been accounted for to the satisfaction of the proper authority.

New licence not to issue till previous licence has been returned.

15. (1) It shall be lawful for the proper authority to cancel, withdraw, or suspend the licence after the same shall have been issued, if the owner of any vehicle shall not keep the vehicle or the animals drawing it in good order and condition, or if such authority has reason to believe that the vehicle is out of repair and not fit to be used for the purpose for which it was licensed, or if the owner shall allow the same to be driven by any person not competent to drive by reason of want of skill or otherwise, or if such owner shall commit any breach of the provisions of this Ordinance or the regulations made thereunder.

Power to cancel, withdraw, or suspend licence.

(2) Whenever a licence is cancelled, withdrawn, or suspended under the provisions of this section, the owner of the vehicle shall return to the proper authority the licence and the plate issued to such owner within fourteen days from the date of such revocation.

CHAPTER III

REGULATIONS

16. (1) The Minister may, for any village area, town, place, district, or province of Sri Lanka, from time to time make, and when made revoke, amend, alter, or vary, such regulations as may seem necessary or expedient for the purpose of carrying out the provisions of this Ordinance.

The Minister may make regulations as to vehicles. [§ 30, 60 of 1961.]

(2) The regulations made under the last preceding subsection may provide among other things—

- (a) for regulating the number of persons to be carried in vehicles, and for the periodical inspection of the condition of such vehicles, animals, harness, and machinery used for drawing or propelling the same ;
- (b) for making from time to time marks on the hoof or otherwise of such animals as are to be used, and as are, in the opinion of the proper authority, fit to draw vehicles, and for the obliteration of any such marks in the case of animals ceasing, in the opinion of the proper authority or of any convicting court, to be fit to draw vehicles ;
- (c) for preventing the use of any animals not marked as aforesaid, or whose marks have been obliterated as aforesaid, to draw vehicles;
- (d) for regulating the weight of goods to be carried in vehicles, the limit of the height and width to which they can be loaded, and the space to be allowed for animals carried therein, and the overall width of vehicles;
- (e) for fixing public stands for vehicles, the distances to which such vehicles may be compelled to take passengers, and the persons to be in charge of such stands, the hours within which vehicles are to remain at the stands, and all other matters relating thereto;
- (f) for fixing the rates and fares for goods and passengers as well for time as distance to be paid for vehicles, and for securing the due publication of such fares;
- (g) for framing a table of distances for the purpose of any fare to be charged by distance;
- (h) for securing the safe custody and delivery of any property accidentally left in vehicles and fixing the charges to be paid in respect

thereof, with power to cause such property to be sold or to be given to the finder in the event of its not being claimed within a stated time;

- (i) for regulating the traffic in the roads and streets and for prohibiting vehicles being left or permitted to remain in any public road except for such time as shall be necessary only for loading and unloading goods and the taking up and setting down of passengers;
- (j) for regulating the manner in which notice may be given by the proper authority to any person under the provisions of this Ordinance ;
- (k) for licensing and registering the drivers of licensed vehicles;
- (l) for limiting the weight and speed of vehicles, and for preventing or restricting the use of vehicles upon any bridge, road, or street, or in any place where such may be attended with danger to the public, or may be likely to damage such bridge, road, or street;
- (m) for regulating the width of tyres of vehicles, and the nature and manner of use of the brakes on vehicles ;
- (n) for every other purpose which may be necessary or expedient for providing for the safety and comfort of passengers and of the public and for the safety of goods conveyed by licensed vehicles :

Provided always that nothing herein contained shall in any way restrict or be construed to restrict the generality of the powers conferred on the Minister by the last preceding subsection, but such powers shall extend to all matters, whether similar or not to those in this subsection mentioned, as to which it may be expedient to make regulations for the better carrying into effect of the objects of this Ordinance.

17. (1) The regulations when so made, altered, or amended shall be published in the Gazette, and shall thereupon become as legal, valid, binding, and effectual as if the

Regulations to be published in the Gazette.

same had been inserted in this Ordinance, and all courts, Judges, and Magistrates shall take judicial notice thereof.

(2) All such regulations 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 in either case they shall be on the table during four sittings at least of Parliament, and any regulation which has been disapproved by resolution of Parliament shall cease to have any force or effect.

Provided, however, that nothing in this section contained shall be construed to limit or in anywise affect the liability of any such owner as a common carrier if he shall be such.

20. No such owner shall be liable for the loss of, or injury to, any article or articles or property of the descriptions following, that is to say, gold or silver coin of this or any other country, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or timepieces of any description, trinkets, bills of exchange, orders, promissory notes, or securities for payment of money, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, opium, silks in a manufactured or unmanufactured state, and whether or not wrought up into other materials, or lace, or any of them, contained in any parcel or package which shall have been delivered to be carried for hire, or to accompany the person of any passenger, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of fifty rupees, unless at the time of delivery thereof at the office, warehouse, or receiving house of such owner, or to such owner, or to his driver, coachman, book-keeper, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person sending or delivering the same, and such increased charge as hereinafter mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

Not liable for loss of certain goods above fifty rupees unless delivered as such.

*18. Any person committing a breach of any regulation made under section 16 shall be liable on summary conviction to a fine not exceeding twenty rupees for the first breach, and not exceeding fifty rupees for any subsequent breach, and in default of payment to simple or rigorous imprisonment not exceeding one month.

Penalty for breach of regulations.

CHAPTER IV

LIABILITIES OF OWNERS OF VEHICLES

19. The owner of every vehicle shall, in the absence of any special contract between him or the person in charge of such vehicle and any other party for the conveyance of goods, be liable for any loss of, or injury to, any goods, articles, or property whatsoever delivered to be carried therein for hire, which shall be occasioned by the neglect or misconduct of such owner, or of any driver, coachman, or other person or servant in his employ or in charge of any such vehicle, and such liability shall be deemed to continue in the person who, in the case of vehicles other than motor vehicles as defined by the Motor Traffic Act, shall have made the declaration of ownership hereto required unless and until he shall have given the notice of transfer required by section 10, or, in the case of motor vehicles as defined by the Motor Traffic Act, in the person registered as the owner of the motor vehicle under that Act, unless and until he shall have informed the Registrar of Motor Vehicles of the name and address of the new owner as required by that Act:

Liabilities of owners of vehicles.

21. When any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed fifty rupees, it shall be lawful for the person receiving the same for carriage on hire to demand and receive an increased rate of charge, to be notified by some notice affixed in legible characters in some public and conspicuous part of the office, warehouse, or other receiving house

Increased rate of charges for such goods.

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

where such parcels or packages are received for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering any such parcels or packages at any such office shall be bound by such notice without further proof of the same having come to their knowledge.

25. Where any such goods as are mentioned in section 20 shall have been delivered as aforesaid, and the value and contents declared as aforesaid, and the increased rate of charge, if any, paid, and such goods shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover such increased charge so paid as aforesaid, in addition to the value of such goods.

Parties entitled to damages may also recover extra charges.

Carriers to give receipt.

22. Whenever any goods shall have been received for conveyance for hire by any such vehicle, whether the same be such goods as are mentioned in section 20 or other goods, the person receiving the same for carriage on hire shall, if thereto required when the rate of carriage shall have been paid, or an engagement to pay the same shall have been accepted, sign a receipt for the said goods setting out therein the name and residence of the owner; and if such receipt shall not be given when required, the person so receiving the same for carriage, in addition to any other liability which he may incur by such refusal, shall not have or be entitled to any benefit or advantage under section 20, and shall be liable to refund any increased rate of charge he may have received in respect of the goods specified therein, and shall further be liable to a fine not exceeding ten rupees.

26. Nothing in section 20 contained shall be deemed to protect the owner of any such vehicle from liability to answer for loss or injury to any goods or articles whatsoever arising from theft or fraudulent conduct of any coachman, driver, book-keeper, or other person or servant in his employ or in charge of any such vehicle, nor to protect any such coachman, driver, book-keeper, or other person or servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

Owner liable for thefts committed by his servants, &c.

Penalty in case of neglect.

27. No owner of any such vehicle shall be concluded as to the value of any goods whereof the value shall be declared in pursuance of section 20, but he shall in all cases be entitled to require from the party suing in respect of any loss or injury proof of the actual value of the said goods by the ordinary legal evidence; and such owner shall be liable to such damages only as shall be proved as aforesaid, not exceeding the declared value, together with the increased charges as aforesaid.

Owner liable to such damages only as proved.

No publication of notice to limit liability in respect of other goods to have effect.

23. No public notice or declaration by the owner of any such vehicle shall be deemed or construed to limit or in anywise affect his liability as aforesaid, for or in respect of any articles or goods to be carried and conveyed by him; but all and every such owner shall be liable to answer for the loss of, or any injury to, any articles and goods in respect whereof he may not be entitled to the benefits of section 20, any public notice or declaration by him made and given in anywise limiting such liability to the contrary notwithstanding.

Any owner may be sued

24. Any one or more of the owners of any such vehicle shall be liable to be sued by his or their name or names only ; and no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate by reason of the non-joinder of any co-proprietor or co-partner in such vehicle.

28. Every box, basket, package, parcel, or other thing whatsoever, not exceeding fifty pounds weight, brought to any coach office or other place, and accepted by the owner of any coach, or by any other person in his employ for the purpose of being carried by any such coach, shall be despatched on the day and by the coach agreed upon, and every such box, basket, package, parcel, or other thing brought to any coach office or other place by any coach for the purpose of delivery at any place within four miles of such coach

Time within which parcels brought by coaches should be delivered.

CHAPTER V

DELIVERY OF GOODS

office or other place (except where the same shall be directed to be left till called for), shall be delivered according to the direction thereof within six hours after the arrival of any such box, basket, package, parcel, or other thing at such coach office or other place, unless such arrival shall be between the hours of five in the evening and seven in the morning; and in that case every such delivery shall be made within six hours after such hour in the morning, and in default thereof the owner of such coach shall for every such offence be liable to a fine not exceeding ten rupees.

29. Every box, basket, package, parcel, or other thing deliverable at places beyond four miles of such office or other place shall be delivered within forty-eight hours after the arrival of such coach, and in default thereof the owner of such coach shall for every such offence be liable to a fine not exceeding ten rupees.

30. Every such box, basket, package, parcel, or other thing brought to such coach office or other place, which shall be directed to be left till called for, shall, upon the demand of the person duly authorized to receive the same, be delivered to such person without any charge or demand whatsoever, other than what is justly due for the carriage thereof and the additional sum of eight cents for the warehouse room thereof; and if the same be not delivered to such person on such demand, or any charge other than as aforesaid be made or received in respect thereof, every keeper of such coach office or other place shall for every such offence be liable to a fine not exceeding ten rupees;

Provided, nevertheless, that if such box, basket, package, parcel, or other thing so directed to be left till called for be not called for from such coach office or other place before the end of one week after the same is brought to such coach office or other place, it shall be lawful to and for the keeper of such coach office or other place to charge and receive the further sum of twelve cents for the warehouse room thereof, and so in like manner if the same be not sent for before the end of the second or any subsequent week, to charge the further sum of twelve cents weekly.

31. If any such box, basket, package, parcel, or other thing brought to such coach office or other place as aforesaid which is not directed to be left till called for shall, before the same is sent for delivery from such coach office or other place, be demanded by any person duly authorized to receive the same, such box, basket, package, parcel, or other thing shall be thereupon delivered to such person demanding the same, and it shall in such case be lawful to and for the keeper of such coach office or other place to charge and take the sum justly due for the carriage thereof, and also the sum of eight cents for the warehouse room thereof, but if the same be not delivered to such person on such demand, or any charge other than as aforesaid be made or received in respect thereof, the keeper of such coach office or other place shall for every such offence be liable to a fine not exceeding ten rupees.

32. The keeper of any coach office or other place to whom any box, basket, package, parcel, or other thing whatsoever not exceeding fifty pounds weight is brought by any licensed coach or any labourer or other person employed by the keeper of any such coach office or other place as aforesaid in the delivery of any such box, basket, package, parcel, or other thing as aforesaid, shall be entitled to ask, demand, receive, and take in respect of such delivery, the sums hereinafter mentioned, that is to say—

- (a) for any distance not exceeding one mile the sum of sixteen cents;
- (b) for any distance exceeding one mile, but not exceeding two miles, the sum of twenty-five cents ;
- (c) for any distance exceeding two miles, but not exceeding three miles, the sum of thirty-seven cents;

and so in like manner the additional sum of twelve cents for every further distance not exceeding a mile.

***33.** If any labourer or other person employed in the delivery of such boxes, baskets, packages, parcels, or other things

Parcels not directed to be left till called for.

Rate of labourer's hire for parcels not exceeding fifty pounds.

Penalty on taking more than the above rates.

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

Parcels, &c., to be delivered within forty-eight hours if distance be beyond four miles.

Parcels directed to be left till called for.

as aforesaid shall ask or demand of or from any person or persons in respect of such delivery any greater sum or sums than the rates or prices hereinbefore fixed in that behalf, such labourer or other person shall for every such offence be liable to a fine not exceeding five rupees.

Goods sent by carts to be delivered within twenty-four hours.

* 34. All goods and merchandise sent by any cart for the purpose of delivery at any place within Sri Lanka, shall, in the absence of any special contract to the contrary, be delivered according to the direction thereof within twenty-four hours after the arrival of any such cart at the place of delivery; and in default thereof the owner of such cart shall forfeit and pay for every such offence any sum not exceeding ten rupees.

CHAPTER VI

GENERAL

Lighting of vehicles.

35. No person shall ride, drive, or lead, any vehicle along any public road, street, or thoroughfare between quarter of an hour after sunset and quarter of an hour before sunrise, unless there shall be attached to such vehicle, in the case of a bicycle, tricycle, wheelbarrow, or other like vehicle, one lamp. and in the case of all other vehicles two lamps, which shall be—

- (a) so constructed as to throw a white light in the direction in which the vehicle is proceeding and a red light in the opposite direction ;
- (b) so placed, in the case of vehicles to which two lamps are required to be attached, one on each side of the vehicle, as to show the width of the vehicle;
- (c) lighted and kept alight so as to afford adequate means of indicating the movement and position of the vehicle:

Provided, however, that the provisions of this section shall not apply to mechanically propelled vehicles.

Warning of the approach or position of vehicle to be given.

36. Audible and sufficient warning of the approach or position of every vehicle shall be given, whenever necessary for safety, by sounding an efficient instrument,

* Primary Court has exclusive jurisdiction under Extraordinary No. 43/4 of 1979-07-02.

but such instrument shall not be unnecessarily sounded so as to be a nuisance to any person.

37. No person under the age of seventeen shall ride, drive, or lead any vehicle other than a bicycle or tricycle not mechanically propelled, or a wheelbarrow, along the public road, and the burden of proving that he is seventeen shall lie on the person charged under this section. Persons under seventeen not to drive.

38. (1) In this section, unless the context otherwise requires, " traffic " includes bicycles, tricycles, motor vehicles, tram cars, vehicles of every description, processions, and bodies of troops, and all animals being ridden, driven, or led, and " overtaking " includes passing or attempting to pass any other vehicle proceeding in the same direction. Rules of the road.

(2) Traffic meeting or being overtaken by other traffic shall be kept to the left or near side of the road. Traffic overtaking other traffic shall be kept on the right or off side of such other traffic :

Provided that a tram car or an animal being led or driven may be passed or overtaken on whichever side is the safer.

(3) Traffic being overtaken by other traffic shall be moved so as to allow such other traffic to pass.

(4) Traffic shall not be moved alongside of, overlapping, or so as to overtake other traffic proceeding in the same direction, if by so doing it obstructs any traffic proceeding in the opposite direction.

(5) Traffic shall not be moved so as to cross or commence to cross or be turned in a highway if by so doing it obstructs any traffic.

(6) Traffic proceeding from one highway to another highway shall not be moved so as to obstruct any traffic on such other highway.

(7) Traffic proceeding from a place which is not a highway into a highway, or from a highway into a place which is not a highway, shall not be moved so as to obstruct any traffic on the highway.

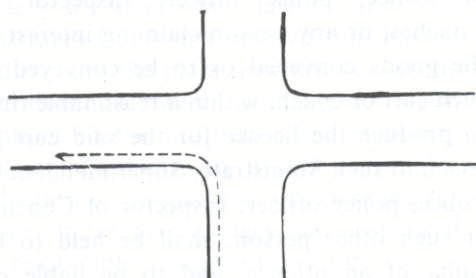
(8) Where two or more highways intersect, regulations may declare which highway is to be considered the main road, and in such case traffic turning into or crossing the main road shall not be moved so as to obstruct any traffic on the main road :

Provided that the prescribed form of warning notice shall always be exhibited.

(9) Traffic shall not be moved so as to overtake other traffic, unless there is a clear and unobstructed view of the road ahead.

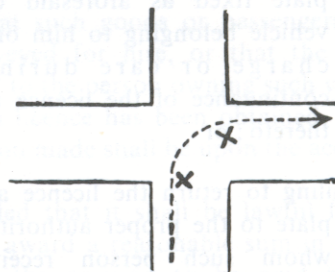
(10) For the purposes of this section traffic obstructs other traffic if it causes risk of accident thereto.

(11) Unless otherwise directed by a police officer on duty, traffic turning into another highway to the left shall be kept close to the left hand side of the road, thus :



(12) Unless otherwise directed by a police officer on duty, traffic turning into another highway to the right shall where practicable

be moved as indicated in the following diagram :



(13) Notwithstanding anything contained in this section, it shall be the duty of a person in charge of any traffic to take such action as may be necessary to avoid an accident, and the breach by a person in charge of any traffic of any provision of this section shall not exonerate any other person in charge of any traffic from the duty imposed on him by this subsection.

39. The driver or owner of a motor vehicle shall not be prosecuted for the contravention of any provision of this Chapter with respect to a motor vehicle.

Exclusion of motor vehicles from this Chapter.

CHAPTER VII

OFFENCES

* 40. Any person committing a breach of sections 36, 37, or 38, or—

Penalties for commission of certain acts.

- (1) wilfully making a false declaration of ownership under section 3 ; or
- (2) using or permitting or suffering to be used any vehicle required to be licensed under this Ordinance without having obtained a licence therefor, or for any purpose or purposes not set out in such licence or after the period during which such licence shall be in force ;
- (3) neglecting or omitting to fix the plate issued under section 8 in such manner that the number thereon shall at all times be plainly and distinctly visible, and in the case of

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

carts, in the position prescribed by section 8 or by any regulation under section 16; or failing to keep such plate fixed as aforesaid on any vehicle belonging to him or in his charge or care during the continuance of the licence relating thereto; or

- (4) failing to return the licence and the plate to the proper authority from whom such person received it within the time specified in section 13, or within seven days after such person has ceased to be the owner of the vehicle in respect of which the same were issued ; or
- (5) suffering the plate issued under section 8 to remain fixed on any vehicle after the licence with which such plate was issued shall cease to be in force; or
- (6) failing to give notice or wilfully giving a false notice of transfer to another of any licensed vehicle, or of such vehicle having been destroyed or rendered wholly unfit for use, or to return the licence and the plate to the proper authority as required by section 11; or
- (7) using between quarter of an hour after sunset and quarter of an hour before sunrise any vehicle without having affixed thereto the lighted lamp or lamps as required by section 35,

shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees, and in default of payment to simple or rigorous imprisonment not exceeding six months.

Further penalties in case of licensed vehicle.

41. Any owner or person having the charge or care of any licensed vehicle committing any of the following acts shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees:—

- (a) permitting or suffering more passengers to enter a licensed vehicle than such vehicle is

authorized by its licence to carry, or permitting or suffering a greater weight or more animals to be carried than such vehicle is authorized by its licence to carry;

- (b) employing or suffering or permitting to be employed any incompetent person to drive a licensed vehicle.

42. Any owner or person having the charge or care of any licensed vehicle committing any of the following acts shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees:—

Further penalty in case of licensed vehicle.

- (a) refusing without reasonable cause (the proof of which shall rest on him) to let such vehicle to any person desirous of hiring the same for the legal fare allowed by any regulations issued under the authority of this Ordinance ; or
- (b) exacting or demanding for the hire thereof more than the proper fare allowed by such regulations.

43. Any owner or person having the charge or care of any licensed cart or coach refusing or neglecting, after being thereunto required by any Magistrate, Superintendent of Police, police officer, Inspector of Coaches, or any person claiming interest in the goods conveyed or to be conveyed in such cart or coach, within a reasonable time to produce the licence for the said cart or coach to such Magistrate, Superintendent of Police, police officer, Inspector of Coaches or such other person, shall be held to be guilty of an offence, and to be liable on conviction to a fine not exceeding fifty rupees for the first offence, and for the second and every other offence to a fine not exceeding one hundred rupees, and the said cart or coach, and every ox, horse, or other animal used for drawing the same, shall in every such case of a second or subsequent offence be forfeited, if the court before which such conviction shall take place shall so adjudge.

Further penalties in respect of licensed carts or coaches.

Misbehaviour of person in charge of vehicle.

* 44. If any person having the charge or care of any vehicle—

(a) shall drive the same on any public thoroughfare, street, or road recklessly or negligently, or at a speed or in a manner which is likely to endanger human life, or to cause hurt or injury to any person or animal or damage to any vehicle or to goods or persons earned thereon, or which would be otherwise than reasonable and proper having regard to all the circumstances of the case, including the nature and use of the public thoroughfare, street, or road, and to the amount of traffic which is actually on it at the time, or which may reasonably be expected on it;

(b) shall be in a state of intoxication while driving such vehicle, or while in charge of it on a public thoroughfare, street, or road,

he shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment, simple or rigorous, for any period not exceeding three months.

Penalty on person refusing to pay hire or defacing or injuring any vehicle.

45. If any person shall refuse or omit to pay to the proprietor or other person authorized to recover the same the sum justly due for the hire of a vehicle, or shall deface or in any manner injure any such vehicle, it shall be lawful for the Magistrate's Court or Primary Court having jurisdiction in the place in which any of the acts aforesaid were committed, upon complaint of the proprietor and summary proof of the facts, to award reasonable satisfaction to the party so complaining for his fare or for his damages and costs, and also reasonable compensation for loss of time in attending to make and establish such complaint; and upon the neglect or refusal of such defaulter or offender to pay the same it shall be recovered as if it were a fine imposed by such court.

Proof of licence to be on the accused.

46. If in any prosecution or proceeding under this Ordinance any question shall arise as to whether a licence has been obtained,

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

or whether any vehicle has been used for the conveyance of any goods or passengers for hire without a licence, or as to whether any declaration of ownership has been made, the proof that such goods or passengers were not conveyed for hire, or that the goods belonged to the person owning such vehicle, or that a licence has been obtained, or the declaration made shall be upon the accused :

Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused to be paid by any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance.

47. The court before which the prosecution or proceeding is taken may award any share of the fines actually recovered and realized not exceeding one-half to be paid to the informer.

Informer's share of penalty.

48. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by a Magistrate's Court or Primary Court, unless the same shall be commenced within three months from the time of the commission of such offence.

Limitation of prosecution.

CHAPTER VIII

APPROPRIATION OF STAMP DUTY OR TAX AND INTERPRETATION

49. (1) Where any vehicle in respect of which stamp duty or tax is payable under this Ordinance is ordinarily used or to be used within any of the limits enumerated in the schedule to this section, such stamp duty or tax shall be payable and shall be disposed of in accordance with the said schedule :

Appropriation of stamp duty or tax.

Provided that no owner of a vehicle shall be required to pay any stamp duty or tax more than once in respect of any one year for the same vehicle.

(2) In case any question shall arise as to the authority to which the said stamp duty

or tax is payable, such question shall be referred to the Minister for decision, and the decision of the Minister shall be final.

(3) Any provision for the disposal of such stamp duty or tax contained in any enactment relating to the powers and duties of any local authority which is inconsistent with any of the provisions of this section is hereby repealed.

SCHEDULE

Limits	Authority to whom Stamp Duty or Tax is payable	Funds to which Stamp Duty or Tax is to be credited
Municipal town	Mayor of the Municipal Council	Municipal Fund.
Urban Council	Chairman of the Urban Council	Local fund.
Town Council	Chairman of the Town Council	Local fund.
Any other Limits	The Government Agent	The Consolidated Fund.

Interpretation. **50.** In this Ordinance, unless the context otherwise requires—

"carriage" means every vehicle other than a cart,
 "cart" means every vehicle drawn by a bullock or bullocks;

"coach" means any vehicle which plies for hire in any public street, road, or place in which the passengers or any of them are charged and pay separate and distinct, or at the rate of separate and distinct, fares for their respective places or seats therein, and include mail coaches whether mechanically propelled or not, and tram cars;

"highway" includes every place over which the public have a right of way or to which the public or any part of the public are granted access, and every place where the traffic thereon is regulated by a police officer;

"proper authority" shall mean within any administrative district the Government Agent thereof, or any officer authorized in writing by the Government Agent to act as such within such district, but in any town or village area where a Municipal Council, Urban Council, Town Council or Village Council has been established, or may hereafter be established, the Mayor or Chairman of such Council; [§ 30, 60 of 1961.]

"vehicle" includes carriages, carts, coaches, tram cars and mechanically propelled vehicles, and every artificial contrivance used or capable of being used as a means of transportation on land.

[Section 5.]

SCHEDULE

STAMP DUTY

1. For vehicles other than those mechanically propelled :-

	Rs. c.
For every carriage drawn by a horse or horses	15 0
For every cart drawn by two bullocks	5 0
For every cart drawn by one bullock	3 0
For every jinricksha	6 0
For every coach, Rs. 2 for each passenger it is licensed to convey.	

2. For every tram car, Re. 1 for each passenger whom it is licensed to convey.

3. For every vehicle not enumerated above, such rate as the Minister with the concurrence of the Minister in charge of the subject of Finance may fix by regulation.

CHAPTER 561

VACCINATION

Ordinance. AN ORDINANCE TO AMEND THE LAW RELATING TO COMPULSORY VACCINATION
No. 20 of 1886,
Acts
Nos. 12 of 1952,
22 of 1955.

[1st July, 1887.]

Short title. 1. This Ordinance may be cited as the Vaccination Ordinance.

properly be done, to vaccinate or revaccinate the said adult.

Division of districts and appointment of places for the purposes of vaccination.

2. Whenever the Director of Health Services shall signify to the Government Agent of any administrative district that he is ready to undertake vaccination in any district, it shall be the duty of the Government Agent, in conjunction with the Director of Health Services and the superintendent of vaccination of that district, forthwith to divide such district into convenient divisions, for the purpose of affording increased facilities for vaccination, and to appoint a convenient place or places in each such division for the performance of such vaccination, and to take the most effectual means for giving, from time to time, to all persons resident within such divisions, due notice of the days and hours at which an officer will attend at such place or places to vaccinate all persons not already successfully vaccinated who may then appear there, and also of the days and hours at which an officer will attend at such place or places to inspect the progress of such vaccination in the persons so vaccinated, and to collect vaccine lymph from them.

4. Every child who has no marks of successful vaccination or of smallpox, or who, if he has such marks, resides in a house or building in which there is a patient suffering from smallpox, shall be taken, or caused to be taken, by his parent or guardian to the place so appointed nearest the residence of such child, for the purpose of being vaccinated or revaccinated; and the officer shall, and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate or revaccinate the said child.

Every parent or guardian to present child under his care to be vaccinated or revaccinated.

5. It shall be lawful for any government medical officer acting under the written authority of the Director of Health Services, to give at least six days' previous notice in writing to the superintendent of any estate appointing a place in such estate and a day and hour at which an officer will attend for the performance of vaccination. Upon the receipt of such notice it shall be the duty of the superintendent to cause the same to be duly published in the Sinhala and Tamil languages in every labourers' line within the said estate, and at the morning and evening muster of the labourers employed thereon.

Vaccination on estates. Superintendent to publish notice given by government medical officer.

Every adult to present himself to be vaccinated or revaccinated.

3. Every adult who has no marks of successful vaccination or of smallpox, or who, if he has such marks, resides in a house or building in which there is a patient suffering from smallpox, shall present himself at the place so appointed nearest his residence for the purpose of being vaccinated or revaccinated; and the officer shall, and he is hereby required thereupon, or as soon after as it may conveniently and

6. Every parent or guardian on the said estate shall take or cause to be taken the child under his care, and every adult residing in any labourers' line thereon, whether employed as a labourer or not, and whether previously vaccinated or not, and whether having already had the smallpox or not, shall present himself for inspection at the time and place so appointed as aforesaid, and the officer in attendance shall

Obligation of every parent or guardian of a child and of adult on estate.

thereupon or as soon after as it may conveniently and properly be done, vaccinate every child or adult who has no previous marks of successful vaccination or of smallpox, or revaccinate every child or adult who, notwithstanding he has such marks, resides in a house or building in which there is a patient suffering from smallpox.

Inspection to ascertain result of vaccination.

7. Upon the same day of the week following the day on which any adult or child has been vaccinated or revaccinated, as provided in section 3, 4 and 6, such adult shall present himself at, and the parent or guardian shall again take or cause to be taken such child to, the same place and at the same hour as before, in order that the officer in attendance may ascertain by inspection the result of such operation, and, if he sees fit, take from such adult or child lymph for the performance of other vaccinations; and in the event of the vaccination being unsuccessful, such adult shall cause himself, and such parent or guardian shall cause such child, if the officer so directs, to be forthwith again vaccinated and inspected as on the previous occasion.

Penalty for washing out lymph or interfering with vaccine vesicles.

*8. Whoever shall wilfully wash out or in any way remove the lymph from any puncture or punctures after vaccination, or cause or permit the same to be washed out or removed, and whoever shall, by the application of any substance or otherwise, interfere with or prevent or cause to be interfered with or prevented the due perfection of any vaccine vesicle or vesicles, shall be guilty of an offence, and be liable to a fine not exceeding ten rupees.

Certificate of successful vaccination.

9. On and immediately after the successful vaccination of any adult or child, the officer who shall have performed or inspected the operation shall deliver to the adult vaccinated, or the parent or guardian of the child vaccinated, a certificate under his hand according to the form A in the Schedule ; and shall also transmit at the end of every month a list of such certificates to the superintendent of vaccination of the district in which the operation was performed.

10. If such officer shall be of opinion that the adult or child is not in a fit and proper state to be vaccinated, he shall immediately deliver to such adult, or to the parent or guardian of such child, a certificate under his hand according to the form B in the Schedule, which certificate shall remain in force for a period (not exceeding six months) to be specified therein by the officer granting the same.

Course to be pursued when adult or child is not in a fit state to be vaccinated.

11. The certificate required by section 10 shall remain in force for the period specified therein; but the adult or the parent or guardian of the child shall be entitled to apply for a renewal thereof for any succeeding period which the officer appointed as aforesaid is hereby directed to grant, so long as he shall be of opinion that the adult or child is unfit for vaccination and is unvaccinated. If at any time when the adult or child presents himself, or is brought before him, the officer shall deem such adult or child to be in a fit and proper state for successful vaccination, he shall forthwith vaccinate the adult or child accordingly, and shall deliver to the adult, or the parent or guardian of the child, a certificate according to the form A in the said Schedule ;

Certificate to last for the period specified therein, and to be renewed if need be.

Provided, however, that if the said officer shall find that any adult or child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that any adult or child coming to or brought to him has already had the smallpox, he shall deliver to such adult, or to the parent or guardian of such child, a certificate under his hand according to the form C in the Schedule, or to the like effect; and such adult or child shall thenceforth be exempted from vaccination for a period of seven years.

12. The superintendent of vaccination of every district in which the operation has been performed shall forward lists of the certificates sent to him under section 9 to the Director of Health Services, at such times and in such forms as such last-mentioned officer shall prescribe. And it shall be the duty of the Director of Health Services to keep a register of the persons of whose successful vaccination lists shall have been transmitted to him as above provided,

Director of Health Services to keep register of persons vaccinated.

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

and at all reasonable times to allow search to be made of any such register in his keeping, and to give a copy or copies certified under his hand of any entry or entries in the same on the payment of a fee of twenty-five cents for every search or certificate.

Penalty for breach of provisions of this Ordinance or of regulations made thereunder.

***13.** Every adult who shall not cause himself to be vaccinated, and every parent or guardian who shall not cause the child under his care to be vaccinated (such adult or child not being certified to be in an unfit state for, or insusceptible of, vaccination), or who shall not on the day fixed by section 7 after the vaccination has been performed (in the case of the adult) present himself, or (in the case of the parent or guardian) take or cause to be taken the child for inspection according to the provisions in this Ordinance respectively contained, and every person who acts in contravention of, or fails to comply with, the provisions of sections 5 and 6, or any regulations duly made under section 14, or who hinders or obstructs anyone in the discharge of any duty imposed upon him by this Ordinance or by any regulation duly made under section 14, and every officer who wilfully signs any false certificate under this Ordinance, shall be guilty of an offence, and be liable to a fine not exceeding ten rupees.

Director of Health Services to provide books and forms, and make regulations.

14. The Director of Health Services shall, and he is hereby empowered and directed to, provide such books and forms, and with the sanction of the Minister, from time to time, make such regulations as he may deem requisite for carrying into full effect the provisions of this Ordinance :

Provided that such regulations shall be published in the Gazette, and may at any time be amended or revoked by the Minister.

Grama seva niladharis to give lists of persons not vaccinated.

15. It shall be the duty of the grama seva niladharis of every district so to be divided as aforesaid for the purposes of vaccination, to provide the officers attending to vaccinate within such districts, whenever called upon so to do, with lists of adults or children to be vaccinated therein :

and every grama seva niladhari neglecting or refusing so to do shall be liable to a fine not exceeding twenty rupees.

***16.** It shall be the duty of all officers of the police force, and of all grama seva niladharis and peace officers generally, and of all superintendents or employers of labour, to aid and assist in the carrying out of this Ordinance and in the prevention of offences against the same, and every officer, grama seva niladhari, or superintendent, or employer of labour who shall fail to do so, or who, being cognizant of any such offence, shall fail to give information thereof, shall be guilty of an offence, and be liable on conviction to a fine not exceeding ten rupees.

Police officers, grama seva niladharis, &c., to assist in carrying out of Ordinance.

17. In any prosecution under this Ordinance, for neglect on the part of any adult to procure the vaccination of himself, or on the part of any parent or guardian to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice of the requirements of the law in this respect; but if the defendant shall produce any such certificate as hereinbefore described, or a duly certified extract from the register mentioned in section 12, and shall prove that the certificate or extract relates to the adult or child referred to in such prosecution, the same shall be a sufficient defence for him except in regard to the certificate marked B in the Schedule when the time specified therein for the postponement of the vaccination shall have expired before the date when the prosecution shall have been commenced.

Evidence in prosecutions.

18. For the purposes of this Ordinance, unless the context otherwise requires— Interpretation.

" adult " shall mean a person apparently of the age of twelve years and upwards;

" child " shall mean a person apparently more than three months and less than twelve years old ;

" estate " shall include every estate in which labourers are employed having ten acres of land actually

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

Cap.561]

VACCINATION

cultivated with coffee, tea, cacao, cardamoms, coconuts, or cinchona, or any of those products ;

the care or custody of any child;

"guardian " shall mean the person who, by reason of the death, illness, absence, or inability of the parent, or other cause, shall have

"parent" shall include the father and mother of a legitimate child, and the mother of an illegitimate child ;

"superintendent" shall include any person for the time being in the immediate charge of any estate.

SCHEDULE

FORM A

[Sections 9 and II.]

CERTIFICATE OF SUCCESSFUL VACCINATION

Name :
Age :
Sex :
Residence :
Date of certificate :

Signature of Vaccinator.

FORM B

[Sections 10 and 17.]

CERTIFICATE OF UNFITNESS FOR VACCINATION

Name ;
Age :
Sex :
Residence : . . . , .
Date of certificate

Signature of Vaccinator.

N.B.—This certificate will remain in force for (*specify period, not exceeding six months*) only from the above date.

[Section 11.]

FORM C

I, hereby certify that I have times unsuccessfully vaccinated (the child of), in the district of (*or, that* has already had smallpox, *as she case may be*), and I am of opinion that is insusceptible of successful vaccination fur a period of seven years from this date.

Given under my hand this.....day of.....19

Signature of Vaccinator.

CHAPTER 579

VILLAGE COUNCILS*

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO VILLAGE COUNCILS.

- Nos. 9 of 1924, 10 of 1927, 12 of 1929, 4 of 1930, 23 of 1930, 9 of 1932, 10 of 1933, 22 of 1933, 37 of 1933, 17 of 1934, 9 of 1935, 24 of 1935, 40 of 1935, 60 of 1938, 61 of 193H, 11 of 1940, 24 of 1940, 31 of 1940, 11 of 1941, 50 of 1941, 54 of 1942, 58 of 1943, 44 of 1944, 12 of 1945, 3 of 1946, 32 of 1946, 53 of 1946, 57 of 1946, 17 of 1947, 44 of 1947,

- Acts Nos. 39 of 1951, 8 of 1952, 38 of 1953, 22 of 1955, 12 of 1956, 2 of 1957, 28 of 1957, 35 of 1957, 14 of 1958, 7 of 1959, 9 of 1961, 39 of 1961, 60 of 1961, 3 of 1962, 2 of 1967, 4 of 1969, 48 of 1971.

- Laws Nos- 4 of 1975, 24 of 1977,

- Act No. 57 of 1979.

[1st November. 1924.]

Short title. 1. This Ordinance may be cited as the Village Councils Ordinance.*

thereof shall, from a date to be named therein, be brought within the operation of this Ordinance,

PART I

VILLAGE AREAS

Application of Ordinance to divisional Assistant Government Agent's divisions. 2. (1) It shall be lawful for the Minister by Order published in the Gazette, to declare that any divisional Assistant Government Agent's division or any part

(2) On such Order being published as aforesaid, such division or part thereof shall, from the said date, be within the operation of this Ordinance.

* See section 18 (2) of the Development Councils Act.

Subdivision of divisions into village areas.

3. Every divisional Assistant Government Agent's division or part thereof brought within the operation of this Ordinance shall be subdivided into village areas consisting of one or more villages or groups of villages in such manner as the Minister may, by Order published in the Gazette, appoint:

Provided that, where, in the opinion of the Minister, it is unnecessary that any such division or part thereof should be subdivided in manner aforesaid, the Minister may, if he thinks fit, by Order published in the Gazette, declare that such division or part thereof shall not be subdivided, and in such case such division or part thereof shall be deemed to be a village area within the meaning of this Ordinance.

Alteration of boundaries and extent of village areas.

*5. (1) For the purposes of this Ordinance the Minister may, from time to time, by Order published in the Gazette—

- (i) alter and redefine the limits of any village area;
- (ii) divide any village area into two or more village areas;
- (iii) amalgamate two or more village areas or portions thereof;
- (iv) constitute new village areas.

(2) Anything in this Ordinance to the contrary notwithstanding, the Minister may, by Order published in the Gazette, provide from time to time, for all matters which he may deem to be necessary to give effect to any alteration, definition, division, amalgamation or constitution made under subsection (1), including—

- (a) the dissolution of any Village Council existing in any village area concerned and the election of such fresh Council or Councils as may be necessary;
- (b) the continuance or the application of the by-laws in force in any village area concerned or any part thereof

at the time of the Order under subsection (1);

- (c) the transfer, apportionment and adjustment of the property rights, debts, liabilities and obligations of the Village Council of any of the village areas concerned ;
- (e) the collection and levy of rates, taxes, tolls, penalties, fines and other sums of money which may be or become due to the Village Council of any of the village areas concerned ;
- (f) pending contracts and legal proceedings to which the Village Council of any of the areas concerned may be a party.

6. Every Order made under the provisions of this Part of this Ordinance shall be laid before Parliament as soon as conveniently may be, and may, at any time within forty days of its being so laid before Parliament, or at any of the three meetings of Parliament next succeeding such date, by resolution of Parliament, be disallowed, but without prejudice to anything that may have been done thereunder.

Orders to be laid before Parliament,

PART II

ELECTION OF VILLAGE COUNCILS

7. A Village Council in accordance with the provisions of this Ordinance shall be constituted for each village area.

Village Council to be constituted for each village area.

8. (1) Each Village Council shall consist of the Chairman and Vice-Chairman and such number of other members as the Minister may, for the purpose of the constitution of the Council, prescribe by Order published in the Gazette.

Composition of Village Councils. [§ 158, Law 24 of 1977.]

(2) In determining the number of members the Minister shall have regard to the area and population of the village area.

(3) Every order made under subsection (1) shall, as soon as may be convenient, be laid before Parliament.

* Section 4 is omitted, as the reference is to the now repealed Rural Courts Ordinance. Paragraph (c) is omitted, as it refers to the now repealed Rural Courts Ordinance.

First general election of members.

*9. Where a Village Council is to be constituted for any village area under this Ordinance, a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing the first members of the Council.

month in that year or in the year immediately preceding that year; and

- (b) extend such term by appointing, in substitution for the last day of June of the year specified in subsection (2) or the day appointed under paragraph (a) of this subsection, the last day of any month in that year or any year subsequent to the year so specified or appointed, and thereafter, from time to time, extend such term by appointing, in substitution for the date of expiry of such term specified in the last Order, a later date :

[§ 2, 2 of 1967.]

[§ 2, 2 of 1967.]

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is, from time to time, extended shall not exceed twelve months.

[§ 2, 2 of 1967.]

Commencement of term of office of Village Council and date of constitution of such Council. [§ 160, Law 24 of 1977.]

10. The term of office of a Village Council to be constituted for any village area under this Ordinance shall commence on such date as the Minister may appoint by Order published in the Gazette. Such date shall be deemed to be the date of the constitution of the Council for all the purposes of this Ordinance and the Council shall be deemed to be duly constituted on that date notwithstanding that the full number of members prescribed under section 8 may not have been duly elected.

Term of office of the members elected at the first and each subsequent general election.

11. (1) The term of office of each member of a Village Council elected at a general election shall commence—

- (a) in the case of the first general election, on the date specified by the Minister by Order under section 10; and
- (b) in the case of any general election subsequent to the first general election, on the first day of July next succeeding the date of the election or on such other date as the Minister may appoint by Order published in the Gazette.

Subsequent general elections.

(2) The term of office of each member of a Village Council elected at the first or any subsequent general election shall expire on the last day of June of the fourth year after the year in which such term of office commenced or on such other date as may be appointed by the Minister under subsection (3).

12. Where the term of office of the members elected at the first or any subsequent general election is due to expire under section 11, a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing new members in place of such members.

13. (1) If the Assistant Commissioner is satisfied that any member of a Village Council has after his election been absent, without notice to the Council, from more than three consecutive meetings of the Council, the Assistant Commissioner shall, by notice published in the Gazette declare that such member has vacated office, and Thereupon such member shall vacate office as from the date on which such declaration is published in the Gazette.

Vacation of office, [§ 5, 60 of 1961.]

(3) The Minister may by Order published in the Gazette—

- (a) curtail the term of office referred to in subsection (2) by appointing, in substitution for the last day of June of the year specified in that subsection, the last day of any

(2) The Assistant Commissioner shall not declare under subsection (1) that any member of a Village Council has vacated office except after notice to the Chairman of that Council and to such member and after such inquiry as the Assistant Commissioner may deem necessary. Every such notice shall be sent by registered post.

[§ 2. 39 of 1961.] [§ 2, 2 of 1967.]

* Section 8A is repealed by Law No. 24 of 1977.

(3) Where a member of a Village Council has, without notice to the Council, absented himself from three consecutive meetings of the Council, the Chairman of the Council shall, within seven days after the date of the third of such meetings, inform the Assistant Commissioner in writing of such absence.

(4) Where the absence of any member of a Village Council without notice to the Council from three consecutive meetings of the Council is alleged to the Assistant Commissioner by any person other than the Chairman of that Council, the Assistant Commissioner may, before inquiring into the correctness or otherwise of the allegation, require such person to deposit in the Kachchcri such sum not exceeding twenty-five rupees as the Assistant Commissioner may require.

(5) The sum deposited under subsection (4) shall, in the discretion of the Assistant Commissioner, be forfeited and credited to the communal fund of the Village Council regarding whose member the allegation referred to in subsection (4) was made, if—

- (a) the Assistant Commissioner finds that such allegation is false and the person who made such allegation has done so with a frivolous, vexatious or malicious intent, or
- (b) such person subsequently withdraws such allegation, or
- (c) such person fails to attend any inquiry held by the Assistant Commissioner into such allegation or refuses to give evidence at such inquiry.

(6) Any sum deposited under subsection (4) shall, unless it is forfeited under subsection (5), be returned to the person by whom it was deposited after the conclusion of the inquiry held by the Assistant Commissioner.

(7) Any person who alleges to the Assistant Commissioner that a member of a Village Council has without notice to the Council absented himself from three consecutive meetings of the Council, knowing or having reason to believe that such allegation is false, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for

a period not exceeding six months or to both such fine and imprisonment.

(8) The Chairman of a Village Council who refuses or wilfully neglects to comply with the provisions of subsection (3) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment,

14. Where any person who is elected as a member of a Village Council decides for any reason not to serve as a member thereof, he may relinquish the office—

- (a) by a written communication of his refusal of office to the elections officer of the district in which the village area for which the Council is constituted is situated, at any time before the date fixed for the first meeting of the Council to be held after his election, or
- (b) by a written communication of his resignation of office to such elections officer, either direct or through the Chairman, at any time after such first meeting.

15. If any person elected as a member of a Village Council refuses or resigns his office, or dies or vacates his office by virtue of the provisions of section 13, or if a casual vacancy occurs in any other manner in such office, such office shall be filled in accordance with the provisions of written law for the time being applicable in that behalf and the persons so elected shall hold office until the next succeeding general election of members of that Council.

***22.** (1) There shall be a Chairman and Vice-Chairman for each Village Council who shall be members and be elected in accordance with the provisions of written law for the time being applicable in that behalf.

(2) The Chairman or Vice-Chairman of a Village Council shall hold office for the term of office of the Council unless he resigns or vacates such office. Whenever a Chairman or Vice-Chairman vacates his office he shall at the same time cease to be a member.

Refusal or resignation of office.

Filling of casual vacancies. [§ 161, Law 24 of 1977.]

Term of office of Chairman and Vice-Chairman. [§ 163, Law 24 of 1977.]

* Sections 16 to 21 are repealed by Law No- 24 of 1977.

(3) The Chairman of a Village Council shall, subject to the provisions of section 39A, be the chief executive officer of the Council and all executive acts and responsibilities which are by this Ordinance or any other written law directed or empowered to be done or discharged by the Council may, unless the contrary intention appears from the context, be done or discharged by the Chairman.

(4) The Chairman may by order in writing delegate to the Vice-Chairman or any officer of the Council any of the powers, duties or functions conferred or imposed upon or vested in the Chairman by this Ordinance or any other written law.

(5) The exercise, discharge or performance by the Vice-Chairman or any other officer of the Council of any power, function or duty delegated to him by order of the Chairman shall be subject to the direction and control of the Chairman and shall be subject to such conditions and restrictions and limited to such purpose or purposes as may be specified in the order and any such delegation may at any time be varied or cancelled by the order of the Chairman.

(6) During the period commencing on the date of occurrence of a vacancy in the office of Chairman and ending on the date of election of a new Chairman or during the period of absence of the Chairman on account of illness or other unavoidable cause the Vice-Chairman may exercise the same powers and perform the same duties as the Chairman.

(7) Whenever the office of Chairman of a Village Council falls vacant information of the occurrence of the vacancy shall forthwith be given by the officer in charge of the Council office. Upon the receipt of such information the elections officer shall proceed to fill the vacancy in accordance with the provisions of written law for the time being applicable in that behalf.

(8) On vacating office whether by operation of law or by resignation, the Chairman of a Village Council shall hand

over charge of all minute books, accounts, records, furniture and other property of the Council, either personally or by a duly authorized person—

(a) to the person duly elected to succeed him as Chairman, within forty-eight hours of the receipt of notice of the election of such successor, or

(b) where a successor is not elected within a period of fourteen days of the occurrence of the vacancy, to the Assistant Commissioner or an officer or person deputed in that behalf by the Assistant Commissioner within forty-eight hours after the expiry of the aforesaid period of fourteen days.

22A. The Chairman and Vice-Chairman of the Village Council of each village area shall each during the tenure of his office, be ex officio a Justice of the Peace for that village area.

The Chairman and Vice-Chairman to be Justices of the Peace. [§ 2, 28 of 1957.] [§ 34, 48 of 1971.]

22B. During the period commencing on the date of occurrence of a vacancy in the office of Chairman of a Village Council and ending on the date of election of a new Chairman, or during the period of absence of both the Chairman and the Vice-Chairman of a Village Council on account of illness or other unavoidable cause, the Assistant Commissioner shall be entitled to exercise the same powers, and perform the same duties, as a Chairman duly elected by that Council.

Power of Assistant Commissioner under certain circumstances to exercise the powers, and perform the duties, of Chairman. [§ 8, 60 of 1961-1

***24.** The Chairman or in his absence, Vice-Chairman shall preside at all meetings of the Council and if both the Chairman and Vice-Chairman are absent the members present shall elect one of their own number to preside at the meetings.

Chairman or Vice-Chairman to preside at meetings of Council. [§ i66, Law 24 of 1977.]

25. (1) Ordinary meetings of a Village Council shall be held for the despatch of business on such dates or at such intervals as may be fixed by by-laws made or deemed by virtue of any written law to have been made under this Ordinance.

Meetings of Council.

* Sections 22c and 23 are repealed by Law No. 24 of 1977.

(2) A special meeting of a Council may be convened by the Chairman whenever he considers it desirable, and shall be convened whenever a written requisition is presented to him signed by members of the Council not less in number than the quorum prescribed for ordinary meetings of the Council.

(3) The special meeting in compliance with any requisition shall be convened within seven days of the receipt of the requisition by the Chairman.

(4) If the Chairman of any Council refuses or wilfully neglects to convene a special meeting within seven days of the receipt of any requisition presented to him, it shall be lawful for the Assistant Commissioner to convene a special meeting at any time thereafter and to preside or to depute an officer of Government to preside over that meeting.

(5) Not less than two days' notice of the date appointed for each special meeting under this section and of the business to be transacted thereat shall be given to, or left at the residence of, each member of the Council.

Quorum. [§ 167, Law 24 of 1977.]

26. The quorum for any meeting of a Village Council shall be one-third of the number of members of the Council in office on the date of that meeting.

PART III

STATUS, POWERS, AND DUTIES OF VILLAGE COUNCILS

Village Councils to be corporations.

*28. Every Village Council shall be a corporation with perpetual succession and a common seal and shall have capacity to hold property, to enter into contracts, and to sue and be sued by the name and designation of the Village Council of the area in and for which it is constituted.

Powers of Councils to be vested in the majority. [§ 168, Law 24 of 1977.]

29. (1) All matters or questions authorized by this Ordinance or by any other written law to be decided by a Village Council shall be decided upon by the

majority of members present at any meeting of the Council held in accordance with the provisions of this Ordinance.

(2) Where the votes of the members present at any meeting are equally divided in regard to any question the Chairman, Vice-Chairman or other member presiding at the meeting shall, in addition to his vote as a member have a casting vote.

30. All proceedings, decisions, orders and acts of a Village Council shall be entered in a book of minutes, and upon their confirmation with such amendments as may be necessary at the next succeeding meeting of the Council, shall be signed by the Chairman; and a copy, certified by the Chairman, of any record so entered and signed, shall be admissible in evidence in any court in Sri Lanka. Minutes.

31. All property movable or immovable enjoyed or controlled on December 31, 1938, by the inhabitants of any village area or of any area deemed by virtue of any written law to be a village area under this Ordinance, shall be vested in the Village Council constituted or so deemed to have been constituted for that area under the provisions of this Ordinance: Property deemed to be vested in Village Councils. [§ 9, 60 of 1961.]

Provided, however,—

- (i) that any building used, whether in whole or in part as the court-house of a Primary Court together with the land on which that building stands and any other land or building appurtenant thereto, may, if such building and any such land have heretofore been vested in the inhabitants or are vested in the Village Council of the area in which they are situate, be resumed by or transferred to the State by Order of the Minister published in the Gazette; and
- (ii) that the publication of such Order shall, without the execution of any deed or instrument, be sufficient to convey to the State the right, title and interest of the inhabitants or of

* Section 27 is omitted, as the language of proceedings of a Village Council is determined by the Constitution.

the Council in the land or building affected by such Order, and the description in any such Order of any land or building as appurtenant to any court-house to which the Order relates shall, as between the State and the inhabitants or the Council, be conclusive proof of the fact that it is so appurtenant.

approval of the Minister granted upon an application made in that behalf by such person.

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.]

Further property vested in Village Councils.

32. There shall further be vested in every Village Council, the following classes of property:—

- (a) all such immovable property of the State, situated within the village area, as may with the sanction of the Minister be handed over to the Village Council for the purposes of this Ordinance by a vesting order signed by the officer or person authorized in that behalf by the Minister:

Provided, however, that each such property shall be held by the Council subject to such conditions as may be set out in the vesting order relating to that property, and that nothing in this section shall be deemed to affect or prejudice the right of the State at any time to resume possession of any such property or to dispose of it for any other public purpose;

- (b) all moneys which for the time being form part of the communal fund ;
- (c) all village works and all fixtures, fittings, or equipment in village works, for the construction, maintenance or provision of which any part of the communal fund, or any tax payable in labour, is applied by the Council,

***32B.** It shall not be lawful for any Village Council 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.]

35. All property vested in a Village Council under the provisions of sections 31 and 32 shall be used or administered, and any revenue derived therefrom shall be employed, by the Village Council for the purposes of this Ordinance. Use of property and revenue.

36. (1) For the purpose of the discharge of its duties under this Ordinance, a Village Council (without prejudice to any other powers specially conferred upon it) shall, subject to the other provisions of this Ordinance and to any rules made thereunder, have the following powers :—

- (a) to create all such posts or offices as it may deem necessary ;
- (b) (i) to assign to any post or office in the service of the Council, other than a post in the Local Government Service, such salary, allowances or remuneration as the Council may think fit;
- (ii) to make, with the prior approval of the Assistant Commissioner, advances of salary to officers and servants of the Council for such purposes and subject to such terms and conditions as may be prescribed by rules which the Minister is hereby authorized to make under section 52 ;

Control of erection of monuments. [§ 7, Law 4 of 1975.]

***32A.** No person shall erect a monument on any land belonging to the State or on any land vested in or belonging to any Village Council except with the prior

* New sections 32A and 32B 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.

+ Sections 33 and 34 are omitted, as Local Boards and Sanitary Boards have ceased to exist and the rights and liabilities of Local Boards and Sanitary Boards have already vested in the Village Councils.

- (c) to remove any officer or servant of the Council, other than a member of the Local Government Service ;
- (d) to abolish any post or office in the service of the Council which is not a post in the Local Government Service;
- (e) (i) to grant pensions to officers and servants of the Council who are not members of the Local Government Service on their retirement from service;
- (ii) to establish and regulate a provident fund for the benefit of the officers and servants of the Council who are not members of the Local Government Service and who will not receive a pension from the Council under sub-paragraph (i), and to make contributions to such fund from the communal fund ;
- (f) to grant leave of absence to officers and servants of the Council who are not members of the Local Government Service;
- (g) to spend any part of the communal fund in the payment of subsistence and travelling allowances to officers and servants of the Council by way of reimbursement of expenses incurred in the performance of any duty;
- (h) to enter into any arrangement with any other Village Council or other local authority for the joint execution of any work or for the employment and remuneration of any officer or servant, not being a member of the Local Government Service, for the several purposes of each Council or local authority ;
- (i) to spend any part of the communal fund on maternity and child-welfare services, the training of midwives for the purposes of any maternity service established by the Council, housing schemes, such charities or such measures for the relief of distress caused by rain, floods, fire, earthquake, famine or epidemics, or such other purpose as may be approved by the Minister;
- (j) to purchase or take on lease any land or building;
- (k) to sell, exchange or let or give out on lease, any land or building which is deemed to be vested in the Council by virtue of section 31 ; or which has been purchased or otherwise acquired by the Council; or in the case of any land or building vested in the Council by a vesting order under section 32, to let or give out on lease such land or building to any person subject to the conditions of the vesting order, or to surrender such land or building to the State ;
- (l) to receive and hold property in trust for the inhabitants of the village area, or any section of such inhabitants, or for the purposes of any public service administered by the Council, and to otherwise act as trustee for any public purpose ;
- (m) to enter into any contract with any person for any work to be done, service to be rendered, goods or materials to be supplied ;
- (n) to spend any part of the communal fund for the construction or alteration, improvement or maintenance of village works, and for the purpose of administering any property vested in or acquired by or otherwise transferred to the Council, or of carrying out the provisions of this Ordinance or any by-law made or deemed by virtue of any written law to have been made thereunder;
- (o) to establish ferries, to impose and to levy or to lease the right to collect tolls at any ferry established or maintained by the Council, and for the protection of such ferry, to prohibit or restrict private ferries by by-laws made in that behalf;

- (p) in the case of a ferry established or maintained between any place within the village area and any place within any other village area or within the administrative limits of any other local authority, to distribute the tolls that may be imposed or levied in respect of any such ferry, in such manner or proportion as may be fixed by agreement entered into with the Council of the other village area or with such local authority, as the case may be, and to spend any part of the communal fund for any work of construction or maintenance to be carried out beyond the limits of the village area in connection with any such ferry;
- (q) to spend any part of the communal fund in the conduct of experiments in agriculture and the breeding of domestic animals, and in the maintenance of experimental farms and studs for that purpose;
- (r) to make by its officers authorized in that behalf and the servants or workmen accompanying them, ail such entries - into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisances, the detection, prevention and abetment of all contraventions of this Ordinance or of by-laws or rules made thereunder, or for the performance of acts required to be done under this Ordinance in respect of which the owner or occupier is, or may be deemed to be, in default;
- (s) by its Chairman or other officers authorized by him, to hold all inquiries which the Chairman may deem necessary for any of the purposes of this Ordinance, and for the purpose of all such inquiries, to administer oaths and summon witnesses;
- (t) to set apart such contributions from the communal fund as the Minister may approve towards the cost of any association of local authorities for the consideration of matters relating to local administration ;
- (tt) to spend any part of the communal fund in the payment of allowances to the Chairman, Vice-Chairman and members at such rates as may be prescribed by rules made under section 52; [§ 169, Law 24 of 1977.]
- (u) to spend any part of the communal fund in the payment of travelling allowances to members of the Council for attendance at meetings of the Council, or to members or officers of the Council attending, with the approval of the Council, any meeting or conference of members or officers of Village Councils for the consideration of matters relating to local administration;
- (v) to apply any part of the communal fund to the payment of such expenses not exceeding in the aggregate one thousand rupees in any year as may be incurred by the Council, and such other expenses as may be incurred by the Council with the prior sanction in writing of the Minister, in connection with civic receptions or the celebration or observance of any events or occasions of public interest, or any religious, charitable, cultural, health, recreational or educational purposes;
- (w) to make from the communal fund such contributions not exceeding in the aggregate five hundred rupees in any year as may be voted by the Council and such other contributions as may be voted by the Council with the prior sanction in writing of the Minister, towards the cost of public entertainments or recreations, or towards the support of any libraries, or any educational, scientific, charitable or benevolent institutions, or any religious, charitable, cultural, health or educational purposes;

- (x) to institute or defend any legal proceedings which the Council may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Council or of the public or of protecting its members or officers in the execution or intended execution of their duties;
- (y) to enforce by-laws made or deemed by virtue of any written law to have been made by it under this Ordinance and to enter prosecutions in the Primary Court for breaches of such by-laws ;
- (z) generally to do all things necessary for the effective exercise of the powers and duties of the Council.

- (e) to mark such levels, boundaries, or lines, by placing permanent marks on existing buildings, trees, posts, walls, fences, or other fixed objects, or by fixing new marks, or by cutting trenches as the case may require;
- (f) and where otherwise a survey cannot be completed or levels taken, or the boundaries and the lines marked, to cut down and clear away any obstructions interfering with the execution of such work.

(2) Where any damage is caused to any land or to anything thereon by the performance of any of the acts referred to in subsection (1), full compensation shall be paid by the Village Council to the owner or other person entitled thereto.

(3) No person shall enter any building or any enclosure attached to a dwelling house for the purposes of subsection (1) except with the written consent of the occupant thereof, or if such consent is withheld, with the written sanction of the Chairman of the Village Council.

(4) Every mark fixed on any land under this section shall be deemed to be the property of the Village Council.

36B. (1) It shall be lawful for any person thereto authorized by the Chairman of a Village Council to seize any ox, buffalo, horse, sheep, goat or pig which he may find tied, tethered or straying on or about any road or path within the administrative limits of the Council, unless such animal is tied or tethered to a cart which is being loaded or unloaded, and to place every animal so seized in the pound established by the Council for the purpose.

(2) No animal seized under subsection (1) shall be delivered to the owner thereof except upon payment to the Chairman of the Village Council of the sum of one rupee, or such other sum as the Minister may by Notification published in the Gazette, fix from time to time, which the Chairman shall cause to be remitted to the person by whom the animal may have been seized, and of a

[§ 169. Law 24 of 1977.]

(2) If the Council rejects any or all the tenders laid before the Council or fails to sanction the contract referred to in subsection (1), the Chairman may with the approval of the Assistant Commissioner enter into such contract,

Power to authorize surveys. [§ 11, 60 of 1961.]

36A. (1) Whenever it appears to the Chairman of any Village Council that an examination or a survey of any private land, building, or premises is necessary for any public purpose in the village area for which the Council is constituted, it shall be lawful for the Chairman to direct any officer or servant of the Council to make such examination or survey, and it shall thereupon be lawful for such officer or servant and his workmen to enter such land, building or premises, and to do thereon any of the following acts:—

- (a) to make a survey and to take levels ;
- (b) to dig or bore into the sub-soil;
- (c) to do other acts to ascertain whether the land, building, or premises is or are adaptable to such public purpose;
- (d) to set out the boundaries of any land which is to be acquired, or street lines, or the lines of any work proposed to be carried out;

Seizure of certain animals on roads or paths. [§ 11,60 of 1961.]

further sum of thirty cents for each day during which the animal may have been kept in the pound.

(3) If no person claims any animal placed in the pound or pays the dues required by subsection (2) within ten days after the seizure of the animal, it shall be lawful for the Village Council to sell it by public auction, and after payment of two rupees, or such other sum as the Minister may by Notification published in the Gazette, fix from time to time, to the person by whom the animal was seized and a sum calculated at the rate of seventy-five cents a day for the custody and maintenance of the animal in the pound, to pay any balance of the proceeds of such sale, if such balance is not claimed and the payment thereof is not obtained by any person entitled thereto, within a period of one year from the date of such sale, to the communal fund.

(4) The provisions of this section shall have effect in every village area notwithstanding anything contained in the Animals Act.

Interference with persons authorized to seize certain animals on roads and paths. [§ 11, 60 of 1961.]

36C. Any person who removes any animal from the lawful custody of any person authorized to seize it under section 36B. or who in any way molests or obstructs such person in the exercise or discharge of his powers or duties, shall be guilty of an offence punishable by the Primary Court having jurisdiction over the area in which the offence was committed.

Authority to levy land tax.

*37. (1) A land tax may be imposed and levied under this section by any Village Council which is authorized in that behalf by the Minister by Notification published in the Gazette.

(2) The land tax under this section shall consist of either or both of the following;—

[§ 12, 60 of 1961.]

- (a) an assessment tax not exceeding nine per centum of the annual value of all buildings and all lands situated in localities within the village area which are declared by the Village

Council with the approval of the Assistant Commissioner to be built-up localities; and

- (b) an acreage tax not exceeding two rupees a year on each acre of land which is situated within that village area and which is under permanent cultivation or regular cultivation of any kind other than paddy and chena cultivation; [§12,60 of 1961.]

Provided that where a building is used wholly or mainly for purposes connected with or incidental to the cultivation of the land on which it is situated or for residential purposes by any person or persons engaged in the cultivation of that land, and an acreage tax is levied and paid on that land, no assessment tax shall be imposed or levied by a Village Council on that building notwithstanding that it is situated within a built-up locality;

Provided, further, that no assessment tax or acreage tax shall be imposed by any Village Council on—

- (a) any land or building wholly or mainly used for religious, educational, or charitable purposes ;
- (b) any land or building which belongs to any religious body and the income from which is wholly or mainly used for religious purposes;
- (c) any building in charge of military sentries;
- (d) any burial or cremation ground ; or
- (e) any divided portion of land, duly defined and forming one property, which is situated in any part of a village area other than a built-up locality and is less than five acres in extent;

And provided further that the Village Council shall not impose an acreage tax exceeding fifty cents a year on each acre of any divided portion of land, duly defined and forming one property, which is less than [§ 12, 60 of 1961.]

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

five acres in extent and is situated in any area declared by the Minister by Order published in the Gazette to be a special area for the purposes of the imposition and levy of that tax;

And provided also that the Council may by resolution specially exempt any property from the assessment tax or acreage tax on the ground of the poverty of the owner.

[§ 8, 57 of 1979.]

(2A) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the assessment tax imposed by a Village Council under this section in any past year where—

- (a) he is of the opinion that such assessment tax has been imposed without the provision of adequate services; or
- (b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case.

[§ 8, 57 of 1979.]

(2B) Where the Minister has under subsection (2A) authorized the waiver of the whole or part of the assessment tax imposed, the Council shall—

- (a) where such assessment tax has been paid, set off such amount of the tax paid against any future tax due on the property in respect of which such assessment tax has been paid, or
- (b) where such assessment tax has not been paid, waive the amount of such tax.

No person shall have a right to a refund of such assessment tax.

(3) Where any land or building, which is situated within any village area and is the property of the State, is occupied or held by any person under any lease or permit granted by the State, such land or building shall be liable to be assessed in respect of any land tax imposed under this section, and such person shall be liable to pay and shall pay the tax leviable in respect of that land or building.

(4) No property of the State, whether movable or immovable, shall be liable to be seized or sold for the recovery of any tax which may be due from any person occupying or holding or enjoying any land or building, which is the property of the State, under any agreement, contract, or permit, whether express or implied, with or from the State.

(5) Subject to the provisions of subsection (8), the land tax under this section shall be assessed and levied, and, in cases of default, shall be recovered summarily, by an officer of the Council nominated for the purpose by the Assistant Commissioner, in such manner as may be prescribed by rules under section 52 :

[§ 3,48 of 1971.]

[§ 26, 48 of 1971.]

Provided, however, that for the purposes of the recovery of the tax in any case of default, the following shall not be liable to such seizure or sale as may be prescribed by any such rule ;—

- (a) the necessary wearing apparel, beds, and bedding of the defaulter, or of his wife and children ;
- (6) tools, utensils, and implements of trade or business, and, where the defaulter is an agriculturist, his implements of husbandry and such cattle and seed grain as may be necessary to enable him to earn his livelihood as such;
- (c) professional instruments and library necessary for the carrying on of the defaulter's profession or business;
- (d) books of account;
- (e) mere rights to sue for damages ;
- (f) any right of personal service ;
- (g) the wages of labourers and domestic servants, whether before or after they are actually payable.

(6) The authority to levy a land tax given to a Village Council by the Minister by Notification under subsection (1) may at any time be withdrawn by a like Notification upon the passing of a resolution

in that behalf by the Village Council and upon the recommendation of the Assistant Commissioner that effect should be given to such resolution ; and where the authority is so withdrawn the Village Council shall forthwith abolish the tax, but without prejudice to its right to recover any arrears of tax that may be due at the time of such abolition.

(7) Where any town or village is excluded from the operation of the Local Boards Ordinance, 1898,* or the Small Towns Sanitary Ordinance, 1892,* and brought within the operation of this Ordinance, the Minister may by Order published in the Gazette declare that town or village or any portion thereof to be a built-up locality and direct the Village Council to impose and lev within that locality an assessment tax in accordance with the provisions of this Ordinance. An Order declaring a built-up locality under this section may be published at any time after the publication of the Order whereby the town or village is brought within the operation of this Ordinance and before the date on which the Order is to take effect; and the first assessment tax under this Ordinance to be levied within that locality with effect from that date may be imposed before that date.

For the purposes of the imposition of the first assessment [ax as aforesaid—

- (i) any rule under section 52 relating to the manner in which the tax is to be imposed or in which properly is to be assessed for the purposes of the tax shall not be deemed to apply; and
- (ii) the annual value of each land or building within that locality shall be deemed to be the annual value thereof last assessed for the purposes of any assessment rate imposed by the Local Board or the Sanitary Board, as the case may be.

[§ 8, 57 of 1979.]

(8) For the purpose of levying the assessment tax referred to in paragraph (a) of subsection (2), a Village Council shall prepare a new assessment only when so directed by the Minister, generally or specially. The Minister may direct the preparation of a new assessment only in

respect of any class or species of immovable property or all immovable property in any built-up locality of a village area having regard to the provision of new services or the improvement of existing services in such built-up locality of a village area. Except when a new assessment is carried out on the direction of the Minister, the Council shall adopt the valuation or assessment for the preceding year with such alterations as may, in particular cases, be deemed necessary, as the valuation or assessment for the year following:

Provided always that notice of such valuation and assessment shall be given in the prescribed manner.

(9) The Minister may, on representations made or of his own volition, direct the revision of the assessment of the annual values in respect of any past year in such manner as he may deem fit having regard to the services that had been provided at the time. [§ 8, 57 of 1979.]

(10) Where there has been a reduction of the assessment tax or special rates as a result of the revision of assessments on a direction of the Minister under subsection (9), the Council shall— [§ K, 57 of 1979.]

- (a) where such assessment tax or special rates have been paid, set off the amount of such tax or special rates so reduced against future tax or special rates due on the property in respect of which such assessment tax or special rates have been paid ; or
- (b) where such tax or special rates have not been paid, waive the amount of such tax or rates so reduced.

No person shall have a right to a refund of such amount.

37A. (1) Where any building, other than a building containing furniture, is or remains unoccupied for any period, a Village Council may allow for that period a proportionate remission of the amount due on that building in respect of the assessment tax. Remission of part of assessment tax in respect of period of non-occupancy of a building- [§ 13,60 1961.]

(2) Where any building containing furniture is registered with a Village Council as a building intended to be let furnished, or

* Repealed by Act No. 54 of 1949.

as a building not intended to be permanently occupied, and the building remains unoccupied, for any period the Council may allow for that period a proportionate remission of one-half of the amount due on that building in respect of the assessment tax.

(3) The period for which remission may be allowed under subsection (1) or subsection (2) in respect of any building shall-

- (i) commence on the date on which written notice is received by the Council to the effect that the building is unoccupied ; and
- (ii) end on the date on which the building is re-occupied:

Provided, however, that where written notice of the date of the re-occupation of any building is not given to the Council within three days of the re-occupation, then—

- (a) if the period for which such remission is claimed exceeds one month, no such remission in respect of one month in that period shall be allowed, and
- (b) if that period does not exceed one month, no such remission in respect of the entirety of that period shall be allowed.

(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 Council 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 Council thereon shall be final; notice of such decision shall be sent by post to the address specified in the notice relating to that building.

Licence duties.

38. A Village Council may impose and levy on every licence issued by it under this Ordinance or the by-laws made or deemed by virtue of any written law to have been made thereunder, a licence duty at rates

determined by the Council by resolution and not exceeding such amount as may be specified by the Minister by Order published in the Gazette.

39. (1) A Village Council may impose and levy each year a tax on such of the vehicles and animals specified in the First Schedule as are ordinarily used or to be used within the village area, at such rates not exceeding the respective amounts set out in that Schedule as the Council may, from time to time, determine by resolution :

Tax on vehicles and animals.

Provided, however, that no such tax shall be levied in respect of—

- (a) any vehicle or animal which is the property of the State or of the Village Council; or
- (b) the authorized number of horses belonging to military officers doing staff, regimental or other public duty within the village area; or
- (c) any vehicle kept for sale by a bona fide dealer in such vehicles and not used for any other purpose ; or
- (d) any vehicle subject to a licence duty under the Motor Traffic Act-

[§ 14. 60 of 1961.]

(2) The tax on vehicles and animals shall be payable by any person in whose possession or custody or control any vehicle or animal liable to the tax may be found thirty days after it has been used for the first time within the village area or brought into the village area for use therein.

(3) No person shall be liable in any year to pay the tax in respect of any vehicle or animal—

- (a) which has been in his possession for less than thirty days in that year, or
- (b) which has been transferred to him after the payment by the previous owner of the tax due thereon for that year, or which has been brought by him into the village area after payment by him of the tax due thereon in any other village area for that year.

(4) Where any vehicle or animal liable to any tax under this Ordinance is used or

to be used within the limits of more than one village area, such vehicle or animal shall only be liable to one such tax, and such tax shall be paid to the Village Council of the village area within which that vehicle or animal is principally used or to be used, and if any question arises as to the village area within which any vehicle or animal liable to any such tax is principally used or to be used, the question shall be determined by the Assistant Commissioner, or where such village areas are not all situated within the administrative region of the same Assistant Commissioner, by the Commissioner of Local Government.

officer of the Council nominated for the purpose by the Assistant Commissioner shall report the failure to the Primary Court and the Primary Court shall proceed to recover the amount due as if it were a fine imposed by the Primary Court and shall pay the amount so recovered into the communal fund of the Village Council. [§27,48 of 1971-]

39A. (1) Where under the provisions of this Ordinance or any by-law, rule or regulation made under this Ordinance, any duty, fine, penalty, fee or other payment has become due to the Village Council, then, notwithstanding anything to the contrary in any such provision or any such by-law, rule or regulation, it shall be the duty of the specified officer, to take all steps necessary to recover such duty, fine, penalty, fee or other payment and credit it to the funds of the Village Council. Recovery of payments due to the Village Council. [§ 28, 48 of 1971.]

(2) Where any rate, tax, rent, fee, duty, toll, fine, penalty or any other payment whatsoever has become due to the Village Council under any written law, other than this Ordinance, or any by-law, rule or regulation made under this Ordinance, then, notwithstanding anything to the contrary in the aforesaid written law, it shall be the duty of the specified officer to take all steps necessary to recover such rate, tax, rent, fee, duty, toll, fine, penalty or other payment and credit it to the funds of the Village Council.

" Specified officer " in this section means an officer of the Village Council nominated for the purpose by the Assistant Commissioner of the region in which that Council is situated.

PUBLIC UTILITY SERVICES

40. A Village Council may, for the purpose of the village area or any part thereof, either independently or in conjunction with any other local authority, and either directly (with or without the assistance of Government) or through any promoter or body of promoters, establish and maintain for the benefit of the persons inhabiting or resorting to such area or part any of the following public utility services;— Power of Village Council to establish and maintain public utility services- [§ 15, 60 of 1961.]

- (a) water supply;
(b) the lighting of streets, public places, and public buildings;

(5) Where any vehicle or animal is ordinarily liable to the tax imposed under this Ordinance and the tax imposed under section 162 of the Urban Councils Ordinance or section 161 of the Town Councils Ordinance or section 245 of the Municipal Councils Ordinance, such vehicle or animal shall be liable to only one such tax which shall be payable—

[§ 14, 60 of 1961.]

(a) where the vehicle or animal is kept within the limits of a village area or within the administrative limits of an Urban Council, a Town Council or a Municipal Council, to the Village Council of such village area or to such Urban Council, Town Council or Municipal Council, as the case may be ; or

[§ 14, 60 of 1961.]

[§ 14, 60 of 1961.]

(b) where the vehicle or animal is not kept within the limits of a village area or within the administrative limits of an Urban Council, a Town Council, or a Municipal Council, to the Village Council, Urban Council, or Town Council or Municipal Council within whose administrative limits it is principally used ;

[§ 14, 60 of 1961.]

[§ 14, 60 of 1961.]

and if any question arises as to the limits within which any such vehicle or animal is kept or used, the question shall be determined by the Commissioner of Local Government.

(6) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, an

- (c) the supply of electric light or power; Council, authorize such promotel or promoters to charge such fees a' may be approved by the Council from persons deriving benefit from such service.
- (d) markets;
- (e) public baths and bathing-places ;
- (f) the manufacture and supply at cost price of squatting plates for latrines; (2) It shall be lawful for the Minister to authorize the waiver of the whole or any part of a special rate imposed by a Council under subsection (1) (b) in any past year where he is of the opinion that such special rate has been imposed without the provision of adequate services. [§9,57 of 1979.]
- (g) the provision of housing accommodation for the poorer classes;
- (h) any other form of public service which the Council may be specially authorized by the Minister to establish and maintain; (3) Where the Minister has under subsection (2) authorized the waiver of the whole or part of any special rate imposed the Council shall— [§9,57 of 1979.]
- (i) any other form of public service which the Council is authorized by any other written law to establish and maintain. (a) where such special rates have been paid set off such amount of rate-against future rates due on the property in respect of which such special rates have been paid ; or

Manner of defraying expenses of public utility services. [§ 16, 60 of 1961.]

40A. (1) For the purpose of the establishment and maintenance of any public utility service which a Village Council is authorized by or under section 40 to establish and maintain the Council may—

- (a) provide for any expenses involved out of the revenue of the Council; or
- (b) levy a special rate upon the area benefited by such service, subject to such limits and exemptions as may be prescribed by by-laws ; or
- (c) contract with the owners or occupiers of premises for the supply of the service, and charge and enforce such rates in respect of such service as may be prescribed by by-laws; or
- (d) charge such fees as it may deem reasonable from persons deriving benefit from such service ; or
- (e) where any such public service is established and maintained through any promoter or body of promoters, in pursuance of any agreement made with the Council or under any licence issued by the

- (b) where such special rates have not been paid, waive the amount of the special rates.

No person shall have a right to a refund of such amount.

40B. A special rate levied by a Village Council upon the area benefited by a water service or conservancy service established and maintained by the Council shall not exceed six per centum of the annual value of all buildings and lands situated within such area.

Maximum of special rate for water or conservancy service. [§ 16, 60 of 1961.]

40C. (1) Where any land or building, which is situated within any village area and is the property of the State, is occupied or held by any person under any lease or permit granted by the State, such land or building shall be liable to be assessed in respect of any special rate imposed under section 40A, and such person shall be liable to pay and shall pay the special rate leviable in respect of that land or building.

Liability for special rates in respect of State property. [§ 16, 60 of 1961.]

(2) No property of the State, whether movable or immovable, shall be liable to be seized or sold for the recovery of any special rate which may be due from any person occupying or holding that property under any agreement, contract or permit, whether expressed or implied, with or from the State.

Assessment and recovery of special rates. [§ 16, 60 of 1961.]

40D. Every special rate under section 40A shall be assessed and levied and, in case of default shall be recovered summarily, in such manner as may be prescribed by rules made under section 52 :

Provided, however, that for the purposes of the recovery of any such rate in case of default, nothing specified in the proviso in section 37 (5) shall be liable to such seizure or sale as may be prescribed by any such rule.

Exemption from special rate by resolution. [§ 16, 60 of 1961.]

40E. A Village Council may by resolution specially exempt any property from any special rate imposed under section 40A on the ground of the poverty of the owner.

Supply to premises in adjacent areas. [§ 16, 60 of 1961.]

40F. A Village Council may, with the approval of the Minister and subject to the consent of the local authority of any area adjacent to the village area, contract with the owners or occupiers of any premises situated in any such adjacent area for the supply of any public utility service to such premises, and may charge and enforce rates in respect of such supply.

General powers of Councils. [§ 16, 60 of 1961.]

40G. For the purposes of the establishment and maintenance of any public utility service which it is authorized to establish and maintain by or under this Ordinance, any Village Council may enter into any contract and may, subject to the provisions of this Ordinance, purchase, take upon lease, hire, construct, maintain all premises, machinery, and apparatus required for such purposes and do and execute all such works, matters and things as may be necessary in that behalf.

Ratepayer entitled to free water supply from public stand-pipes for domestic purposes. [§ 16, 60 of 1961.]

40H. Where the Village Council establishes and maintains a public water supply for the benefit of the inhabitants of the village area or any part thereof, the owner or occupier of any premises in such area or part, as the case may be, in respect of which the Council levies a special water rate, shall be entitled to have free of further charge a supply of water from the public stand-pipes for the domestic purposes of himself and his household or of his tenants or other persons occupying the premises.

40J. 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 fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation.

Meaning of "domestic purposes". [§ 16, 60 of 1961.]

40K. A Village Council may supply water for other than domestic purposes or allow a private service of water to any premises for domestic purposes in such quantities and upon such terms and conditions as may be agreed upon between the Council and the persons desirous of being so supplied, or as may be prescribed by by-laws in that behalf.

Contract for private service. [§ 16, 60 of 1961.]

40L. It shall be lawful for a Village Council to establish and maintain within the village area all such village fairs as are required for the service of the inhabitants, and to provide for the proper regulation, supervision and control of such fairs.

Power of Village Council as to village fairs. [§ 16, 60 of 1961.]

40M. The following provisions shall apply in the case of every village area where the establishment or maintenance of a private fair except under the authority of a licence is prohibited under any by-taws made in that behalf by the Village Council of that area:—

Provisions applicable where a licence is required for a private fair. [§ 16, 60 of 1961.]

- (1) Every licence for a private fair granted on or after such date as the Minister may appoint by Order published in the Gazette shall be upon the condition that should the Council at any time decide that it is in the public interest to establish a village fair in place of such private fair, the authority empowered in that behalf may refuse to renew the licence of such private fair, and that the owner of such private fair shall not be entitled to any compensation in respect of such refusal.
- (2) The authority empowered in that behalf may, on or after the date appointed under paragraph (1) of this section, refuse to issue or renew a licence for a private fair, if he is satisfied that the wants of the area

are sufficiently provided for by the village and private fairs already in existence or in contemplation.

Compensation for discontinuance of private fair. [§ 16, 60 of 1961.]

40N. (1) Where a Village Council is satisfied that it is in the public interest that any private fair should be either—

- (a) discontinued, or
- (b) taken over by the Council and maintained as a village fair,

the Council may either direct the discontinuance of such fair, or may take it over and maintain it as a village fair, subject in either case to the payment of compensation in accordance with the provisions of this section.

(2) Where any private fair is directed by a Village Council to be discontinued, the compensation payable unless otherwise settled by agreement shall be the difference between the value of the premises if used as a fair under this Ordinance and the value of the same premises if used, not as a fair, but for any other purposes to which similar premises in the same locality are or might be put to the best advantage- together with an allowance in respect of the cost of adapting for any such purpose the buildings used for the fair.

(3) Where any private fair is taken over by a Village Council to be maintained as a village fair, the compensation payable shall be the value of the premises when used as a fair under this Ordinance.

(4) In estimating the value of the premises used as a fair under this Ordinance, regard shall be had to the depreciation likely to occur in the value of such premises in the event of a village fair or a new private fair being established in the same neighbourhood.

Communal fund.

41. Every village area shall, for the purposes of this Ordinance, have a communal fund, and there shall be paid into that fund—

- (a) all fines and penalties enumerated in the Second Schedule;

- (b) all rates and taxes levied under sections 37, 39 and 40;
- (c) all licence duties levied under section 38 and the amount of all stamp duties enumerated in the Third Schedule;
- (d) all sums realized by sales, leases, or other transactions of the Council;
- (e) all revenue derived from any property vested in the Council or from any public service maintained by the Council;
- (f) all sums appropriated by Parliament or allocated by the Minister to the Village Council:

Provided that no such sum shall be paid into the communal fund unless such payment is authorized by the Commissioner of Local Government;

- (g) all sums otherwise accruing to the Council in the course of the exercise of its powers and duties under this Ordinance.

***42.** (1) Every Village Council shall have power to make, from time to time, such by-laws, not inconsistent with the provisions of this Ordinance, as may be authorized or required by this Ordinance, or may appear to the Council to be necessary for the purposes of the exercise of its powers and the discharge of its duties under this Ordinance, and to amend, vary or rescind any by-law so made.

Power to make by-laws. [§ 17, 60 of 1961.]

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), a Council may make by-laws for or in respect of all or any of the following purposes:—

- (i) Meetings and procedure, including—
 - (a) the intervals at which ordinary meetings are to be convened ;
 - (b) special meetings;
 - (c) mode of convening a meeting;
 - (d) conduct of meeting.

* Primary Court has exclusive jurisdiction in respect of all offences consisting of breaches of by-laws made or deemed to be made under this Ordinance. - Vide section 33 of the Judicature Act read with Gazette Extraordinary No. 43; 4 of 1979-07-02.

- (ii) Officers and servants, including—
 - [§ 17, 60 of 1961.] (a) the creation of posts or offices;
 - [§ 17, 60 of 1961.] (b) appointments to posts or offices in the service of the Council, not being posts in the Local Government Service;
 - [§ 17, 60 of 1961.] (bb) the qualifications necessary for appointments to posts or offices referred to in sub-paragraph (b);
 - [§17, 60 of 1961.] (c) the payment of salaries, allowances and remuneration to officers and servants of the Council who are not members of the Local Government Service;
 - [§17, 60 of 1961.] (cc) the provision of pensions or gratuities to the widows, children, next of kin or dependants of deceased officers or servants;
 - [§ 17, 60 of 1961.] (d) the establishment and regulation of a provident fund for the benefit of the officers and servants referred to in sub-paragraph (c);
 - [§ 17, 60 of 1961.] (e) the grant of leave of absence to officers and servants referred to in sub-paragraph (c).
- *(iii) Taxation of land, including-
 - (a) the fixing, for the purposes of the assessment tax on property, of the percentage or rate to be deducted from the annual value for the probable annual average cost of insurance, repairs, maintenance and upkeep;
 - (b) the form of the returns, statements or information that may be called for the purposes of any tax, and the manner in which they are to be called for by the Chairman and furnished by the inhabitants.
- (iv) Loans, including—
 - (a) the form and manner of execution of securities;
 - (b) the arrangements for liquidation;
 - (c) the mode and order of repayment of securities;
 - (d) the conditions of any loan and the appropriation of the sums advanced.
- (v) Land and property, including—
 - (a) the provision, regulation, and management of amhalams and madams, open spaces, and places for public recreation ;
 - (b) the care of waste or public land;
 - (c) the maintenance and management of immovable property vested in, or under the control of, the Council;
 - (d) the care, regulation, and provision of common pasture grounds, and the levy of fees for the use of the same;
 - (e) the putting up and preservation of boundaries and of fences of lands, whether private or public;
 - (f) the authorization of entry upon private lands for the purpose of the prevention of damage to, or the repairing or remedying defects in, any wires or apparatus or the supports thereof maintained for the purpose of any public service.
- (vi) Roads and paths, including—
 - (a) the improvement, alignment, level, width, and construction of new roads and paths in the area;

* Application modified in such areas as may be specified in an Order under Section 2 of the Rating and Valuation Ordinance.—See Section 76 thereof.

- (b) the cleaning, watering, and lighting of roads and paths;
 - (c) the use of, and regulation of traffic in roads and paths, including the limitation of the weight and speed of vehicles, and the prevention or restriction of the use of vehicles upon any bridge, road, or path, or in any place where such use may be attended with danger to the public, or may be likely to damage such bridge, road, or path;
 - (d) the regulation of processions and assemblages and of the performance of music on roads or paths;
 - (e) the prevention, abatement, supervision, and regulation of obstructions, encroachments, projections and other interferences with roads and paths;
 - (f) the erection of hoardings and other temporary structures, and charging of fees for the use of hoardings erected by the Council;
 - (g) the protection of the public against dangers resulting from building and other operations in or about roads and paths.
- (vii) Buildings, building operations, and works, including—
- (a) the definition of areas to which the by-laws under this heading are to apply;
 - (b) the regulation of the material of new buildings with a view to securing stability, the prevention of fire, and purposes of health;
 - (c) the space to be left about any building or block of buildings to facilitate and secure free circulation of air and to facilitate scavenging;
- (d) the dimensions of doors and windows, the level of the floor, the height of the roof, general ventilation, and drainage;
 - (e) the number and nature of latrines;
 - (f) foundation and stability of structure;
 - (g) the line of building frontage.
- (viii) Public health and amenities, including—
- (a) drainage;
 - (b) conservancy and scavenging, and the charging of fees therefor;
 - (c) the inspection, regulation, maintenance, and cleansing of drains, privies, cesspits, ash-pits, and sanitary conveniences and appliances;
 - (d) the regulation and management of public sanitary conveniences;
 - (e) the regulation, supervision, inspection, and control of lodging-houses and tenement buildings;
 - (f) the abatement of nuisances;
 - (g) the seizure, forfeiture, removal, and destruction of unwholesome articles of food or drink, and the prevention of the sale or exposure for sale thereof;
 - (h) the regulation, supervision, inspection and control of bakeries, eating houses, and restaurants, and tea and coffee boutiques;
 - (i) the regulation, supervision, inspection, and control of dairies, and the sale of milk;

- (j) the sale of provisions, including the inspection, regulation, and control of shops and places (other than markets) used for the sale of meat, poultry, fish, fruit, vegetables, or other perishable articles of food for human consumption, and the licensing of shops and places used for the sale of fresh meat, fresh fish, or live animals ;
 - (k) the regulation, supervision, inspection, and control of trades deemed to be offensive or dangerous by the Council;
 - (l) the regulation of the dimensions and use of kraals in public lakes, rivers, lagoons, and estuaries for soaking coir husks, and the charging of fees for the use of such kraals;
 - (m) the regulation, supervision, inspection, control and licensing of breweries and aerated water manufactories;
 - (n) the compelling of owners and occupiers in the village area to keep their lands free of undergrowth and rubbish, and their dwelling compounds in clean and sanitary condition ;
 - (o) the prevention of malaria and the destruction of mosquitoes and disease-bearing insects;
 - (p) the draining; cleansing, covering, or filling up of 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 ;
 - (q) the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, and places of assembly or worship by the owners or occupiers and persons having the care and ordering thereof;
 - (r) the prevention or mitigation of epidemic, endemic, or contagious diseases, and the speedy interment of the dead during the prevalence of such diseases;
 - (s) washing and bathing, including the establishment, maintenance, and regulation of public bathing-places and places for washing animals and clothes ;
 - (t) all such other purposes as are not specially provided for by this Ordinance, and may be necessary for the preservation of the public health and the suppression of nuisances.
- (ix) Itinerant vendors, including—
- (a) the supervision or control of itinerant vendors;
 - (b) the issue of licences for the purpose of such supervision or control, and the conditions to be attached to such licences ;
 - (c) the refusal of licences whether in the absolute discretion of the issuing authority or in prescribed circumstances;
 - (d) the regulation or prohibition of the sale of any specified article or the sale of articles in any specified place or area.
- (x) Animals, including—
- (a) the housing and penning of cattle, horses, sheep, goats, and pigs;
 - (b) stray cattle, goats, and pigs, including the fixing, levying, and recovery of charges for the occupation of pounds, and the cost of the keep of the animals impounded;

- (c) the control of epidemic diseases among animals, the maintenance and regulation of quarantine stations for animals, and the levying of fees for the occupation thereof;
- (d) the regulation and control of the collection and sale of the dung of cattle, horses, sheep, and goats, and the removal of such dung from any place within the village area to any place outside such area ;
- (e) the protection and preservation of game and wild birds ;
- (f) the destruction of stray dogs;
- (g) the prevention of cruelty to animals (including the restriction of the exposure for sale of live animals in any manner which in the opinion of the Council is likely to cause unnecessary pain or suffering);
- (h) the regulation and supervision of cattle sheds, galas, and halting places and the control of the location thereof;
- (i) the disposal of the bodies of dead animals.
- (xi) Village or private markets and fairs, including—
 - (a) their establishment, maintenance and improvement;
 - (b) their regulation, supervision, inspection, and control, including the regulation of the prices of articles sold therein ;
 - (c) their conservancy and scavenging, and the prevention of nuisances in connection therewith •
 - (d) the control of traffic, and the preservation of order within them and in their immediate vicinity;
- (e) the provision, inspection, and control of latrines, slaughterhouses, water supply, and lighting on the premises of markets;
- (/) the allotment of stalls, stands, seats or spaces;
- (g) the inspection of food and seizure of unwholesome articles of food;
- (A) the prohibition of the introduction or sale of any article or articles of food in cases where, in the opinion of the Council, there exists good reason for such prohibition ;
- (/) the absolute prohibition, or the restriction by means of special licences, of the sale of any article, and the charging of fees for such special licences ;
- (") the provision of security against fires;
- (A-) the temporary closing of an market or fair;
- (/) the due performance of their duties by market keepers and other employees;
- (m) the fixing and recovery of fee; or rents for the use of the premises of a village market or any part thereof, or of the buildings thereon, and for the leasing of the right to collect any such fees or rents;
- (n) the declaration of a market area for each village market and the licensing, restriction or prohibition of private markets or of the sale of market commodities within such area in any place other than the village market;
- (o) the licensing of private market; or fairs, the conditions of the licence, and the fees payable in respect thereof;

[§ 17,60 of 1961.]

[§ 17,60 of 1961.]

[§ 17,60 of 1961.]

[§ 17,60 of 1961.]

[§ 17,60 of 1961.]

- (p) the standards to be observed in respect of accommodation, drainage, roads, air spaces, equipment, and sanitary requirements in private markets or fairs;
- (q) the renovation, alteration, enlargement, and improvement of existing buildings, and the erection of new buildings after notice to the Council and in accordance with plans to be approved by the Council, in or about the premises of private markets or fairs.
- (xii) Water supply, including—
 - (a) the regulation, protection and mainienance of communal wells, spouts, springs or other watering places for the supply of water for domestic purposes;
 - (b) the regulation and maintenance of watering places of any kind set apart by the Council for bathing or for the washing of animals, clothes and other articles;
 - (c) the regulation of the construction and maintenance of private wells in such manner as may be necessary to safeguard the public health and safety;
 - (d) the regulation, control, protection and maintenance of the supply of water from any waterworks established or maintained by the Council.
- (xiii) Public services, including all matters necessary for their establishment, maintenance, working, and supply, for the imposition and recovery of charges in connection therewith, and for their protection against damage and against competition.
 - (xiv) The measure or dimension of bread, and the regulation of its manufacture and quality.
 - (xv) The regulation of weights and measures.
 - (xvi) The prevention of accidents connected with toddy drawing and for the periodical inspection of the ropes and other appliances used for that purpose.
 - (xvii) The prevention of accidents caused by the setting of spring guns and traps.
 - (xviii) The fencing of wells and pits.
 - (xix) The prevention of gambling and cock-fighting and of cart-racing on public paths or roads.
 - (xx) The prevention of disorderly conduct, of loitering in public paths or roads or public places, and of the use of abusive language.
 - (xxi) The prevention of the sale to boys under sixteen years of age or to females, of any description of spirits or other intoxicating liquor or toddy drawn from any species of palm or the fermented juice of the sugar cane.
 - (xxia) The regulation, supervision, [§17,60of inspection and control of 1961.] hairdressing saloons and barbers' shops.
 - (xxi b) The regulation, supervision, [§ 17,60of inspection and control of 1961.] billiardsaloons.
 - (xxi c) The regulation, supervision, [§ 17,60of inspection and control of 1961.] forges.
 - (xxid) The licensing of auctioneers [§17,60 of and brokers. 1961.]
 - (xxie) The licensing of persons [§17,60of carrying on the business of 1961.] money lending.

(xxii) All other purposes, whether of the same nature as those above enumerated or otherwise, which, in the opinion of the Council, may be necessary for the protection or promotion of the local public interests, conveniences, and amenities.

(3) No by-law made under this section shall have effect until it is approved by the Minister and notification of such approval is published in the Gazette.

Power to raise loans. [§ 18, 60 of 1961.]

43. (1) Subject to the provisions of section 50, it shall be lawful for a Village Council to borrow from the Government of Sri Lanka, or any person or body of persons whether incorporated or not, such sum or sums of money as may be necessary for any of the purposes of the Council. Every loan raised by a Village Council shall be subject to such rate of interest and to such conditions for the repayment thereof as the Minister with the concurrence of the Minister in charge of the subject of Finance may approve.

[§ 170, Law 24 of 1977.]

(IA) If a Council fails to sanction the raising of a loan for the purpose of fulfilling any duty or carrying out any work which the Chairman considers to be necessary he may with the approval of the Commissioner of Local Government raise such loan and may exercise all the powers vested in the Council under this section or section 50 as though such powers were conferred by those sections on the Chairman.

(2) For the purpose of securing repayment of the sum or sums so borrowed and the interest accruing thereon, the Council may mortgage and assign to the lender, by or on whose behalf such sum or sums or any part thereof may be lent, any revenues accruing under the provisions of this Ordinance and any property acquired by or belonging to the Council.

(3) Notwithstanding anything in section 15 of the Local Loans and Development Ordinance contained, it shall be lawful for the commissioners appointed under that Ordinance to advance money to a Village Council for the purposes aforesaid on such security as such commissioners may deem

sufficient, and the provisions of that Ordinance shall apply to any such loan whether made before or after the commencement of this Ordinance.

(4) All securities given by a Village Council in respect of loans under this section shall be free of stamp duty.

(5) It shall be the duty of any Village Council which raises a loan under this section to set apart each year such portion of the communal fund as may be sufficient for the purpose of paying the interest falling due on the loan and of repaying the principal when it falls due.

44. For the purposes of section 3 of the Cemeteries and Burials Ordinance every Village Council shall be the proper authority under that Ordinance within the limits of the village area for which that Council is constituted.

Village Council to be proper authority under Cemeteries and Burials Ordinance.

44A. Any land or building required for the purposes of a Village Council may be acquired under the Land Acquisition Act by the Government for such Council.

Compulsory acquisition of lands and buildings. [§ 2, 35 of 1957.]

44B. (1) Where in any village area any tree or any branch, fruit, or other part of a tree is causing or is likely to cause damage to any building, or is in a condition dangerous to the occupants of any building, or to the safety of passers-by along any public thoroughfare, the Chairman of the Village Council of such area may, by a notice in writing served on the owner or occupier of the land on which such tree stands, require such owner or occupier to tie up and make secure, or to cut down and remove, such tree or the branch, fruit, or other part of such tree within such time as may be specified in the notice.

Powers of Chairman of a Village Council in regard to trees or branches or fruits of trees endangering the safety of person or property. [§ 19, 60 of 1961.]

(2) Every person on whom a notice from the Chairman of a Village Council is served under subsection (1) shall comply with the requirements of such notice within the time specified therein, and in the event of the refusal or neglect of such person to comply with such requirements within such time, such Chairman, or any officer or workman authorized in writing by such Chairman, may enter upon the land referred to in such notice and do what such person was

required to do by such notice, and the expenses thereby incurred may be recovered from such person as a debt due to such Village Council.

Definition of village works.

45. In this Part of the Ordinance, "village work" includes—

- (a) any path, road, drain, bridge, culvert, edanda, amhalam, madam, schoolroom, spout, well, watering or bathing-place, canal, tank, ford, ferry, burial or cremation ground, pasture land, gala, market or slaughtering-place, or
- (b) any other work or scheme for the preservation of the public health or the promotion of the comfort, convenience or welfare of the people,

which is constructed, established, maintained, protected or regulated and controlled, by a Village Council.

PART IV

SUPERVISION AND CONTROL OF VILLAGE COUNCILS

Limitation of powers of Village Councils [§ 20, 60 of 1961]

46. The powers conferred on a Village Council by sections 36 to 40A and section 40E shall be subject to the limitation and condition that it shall not be lawful for the Village Council to give effect to any resolution or decision arrived at in the exercise of those powers, until such resolution or decision is approved—

- (1) by the Minister with the concurrence of the Minister in charge of the subject of Finance in every case where the resolution or decision relates to the imposition of any rate, tax other than a tax on vehicles and animals under section 39, or toll; or
- (2) by the Assistant Commissioner, subject to an appeal to the Minister in every case where the resolution or decision relates to—
 - (a) the purchase, sale or exchange of any land or building; or

(b) the lease of any immovable property handed over to the Council by a vesting order under section 32 ; or

(c) the creation of any salaried post or office in the service of the Council; [§ 20, 60 of 1961.]

(cc) the remuneration to be assigned to any post or office in the service of the Council, not being a post in the Local Government Service; [§ 20,60 of 1961.]

the expenditure of any sum of money exceeding three hundred rupees out of the communal fund on any work, scheme or project; or [§ 20, 60 of 1961.]

(e) the formation of any contract or other agreement involving any expenditure exceeding three hundred rupees out of the communal fund ; or [§ 20, 60 of 1961.]

(f) the organization of any scheme for the relief of distress, to which contributions are to be given from the communal fund; or

(g) the allocation of any part of the communal fund for any purpose specified in paragraph (n) of section 36 :

Provided that the prior approval of the Minister shall not be necessary in the case of a resolution whereby a Village Council decides to impose in any year a rate or tax at the same rate as was in force during the preceding year.

47. (1) Notwithstanding anything in section 46 but subject to subsection (2) of this section, the approval of the Assistant Commissioner shall not be required before effect is given to any resolution or decision of a Village Council in respect of any matter referred to in sub-paragraphs (d) to (g) of paragraph (2) of that section. Application of section 46.

(2) The Minister may in his discretion by Order published in the Gazette declare that the provisions of subsection (1) of this section shall not apply in the case of any Village Council specified in the Order; and so long as such Order remains in force the provisions of section 46 shall apply in relation to resolutions or decisions of that Village Council in all respects as though subsection (I) of this section had not been enacted.

Rules as to administration of fund and property.

48. (1) The administration by a Village Council of the communal fund and of the property vested in, or used or occupied by, the Council, shall be further subject to such rules of procedure as may be made under section 52 for prescribing—

- (a) the form in which estimates and budgets shall be prepared ;
- (b) the period within which, and the manner in which, the approval of the Minister or of the Assistant Commissioner shall be obtained in any matter connected with a budget, which requires such approval under the provisions of this Ordinance;
- (c) the steps to be taken in any matter connected with a budget, in the event of its being disapproved by the Minister or the Assistant Commissioner;
- (d) the form in which books of accounts shall be kept by a Village Council;
- (e) the form of the periodical statement of accounts which shall be prepared by a Village Council;
- (f) the manner in which, the intervals at which, and the persons by whom, the books, accounts, documents and other records of a Village Council, the works of construction, maintenance or repair undertaken or executed by a Village Council, and the lands and buildings vested in or used or occupied by a Village Council shall be inspected ; and

(g) the mode of giving notice, within the village area, of the financial proposals of a Village Council, and of publishing the periodical statements of accounts.

(2) (a) The accounts of every Village Council shall be inspected and examined once at least in every year, and shall be audited annually by the Auditor-General or an officer authorized by him (hereinafter referred to as the auditor); and the Village Council shall pay to the Government, as a contribution towards the cost of such inspection, examination and audit, a fee according to such rates as may, from time to time, be determined by the Minister in charge of the subject of Finance.

Audit of accounts. [§21. 60 of 1961.]

[§21. 60 of 1961.]

(b) For the purposes of any inspection, examination and audit of accounts under this subsection, the Auditor-General or authorized officer may, by notice in writing, require the production before him of any book, deed, contract, account, voucher, and any other document and papers which he may deem necessary, and may require any person holding or accountable for any such book, deed, contract, account, voucher, document, or papers to appear before him at any such inspection, examination and audit or adjournment thereof, and to make and sign a declaration in respect of any matter relating -thereto. Every such declaration shall be free of stamp duty.

[§21. 60 of 1961.]

[§21. 60 of 1961.]

(c) If any person neglects or refuses to produce any book, deed, contract, account, voucher, document, or papers within thirty days of his being required so to do, or to make or sign any declaration when required so to do under this subsection, he shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

[§21. 60 of 1961.]

(d) In auditing the accounts of a Village Council under this subsection, the auditor shall disallow every item of the accounts which is contrary to law, and surcharge the same on the person making or authorizing the making of the illegal payment, and shall charge against any person the amount of

[§ 21, 60 of 1961.]

any deficiency or loss incurred by the negligence or misconduct of that person and any sum which ought to have been, but is not, brought into account by that person and shall in each case certify the amount due from such person and communicate his decision in writing to such person through the Commissioner of Local Government, The communication shall be transmitted by the Commissioner of Local Government to such person by registered post, and if so transmitted shall be deemed to be received by such person at the time when the letter containing the decision would be delivered in the ordinary course of post, and in proving that such letter was posted it shall be sufficient to prove that such letter was properly addressed and put into the post:

Provided that no expenses incurred by a Village Council shall be disallowed by the auditor if such expenses have been sanctioned by the Minister.

[§21, 60 of 1961.]

(dd) Where any item of the accounts of a Village Council relating to any expenditure authorized by a resolution of the Council is disallowed by the auditor as being contrary to law under paragraph (cf) of this subsection, the Chairman of the Council and every other member of the Council who voted in favour of such resolution, shall each be deemed to be a person who made or authorized the making of the payment for the purposes of that paragraph.

(e) Before making any surcharge or disallowance against any person, the auditor shall afford an opportunity to such person to be heard or to make any representation with regard to the matter which he may think fit, and shall, in the event of his making such surcharge or disallowance, furnish such person in writing, on application being made to him for that purpose, with the reasons for his decision in respect of such surcharge or disallowance.

[§21, 60 of 1961.]

(f) Any person aggrieved by- any surcharge or disallowance made under this subsection may, within thirty days after the date of the decision of the auditor being communicated to him, appeal therefrom to the Minister:

Provided that no such appeal shall be entertained in any case in which the

appellant has failed or neglected to make any representation with regard to the matter of such surcharge or disallowance after an opportunity to do so has been afforded to him by the auditor in accordance with the provisions of this subsection.

(g) The Minister shall decide every appeal under this subsection according to the merits of the case, and may by order direct the recovery from the appellant of the whole or any portion of the amount surcharged or disallowed, if he thinks fit to do so ; and if he finds that any surcharge or disallowance has been lawfully made, but that the subject-matter thereof was incurred in such circumstances as to make it fair and equitable that the surcharge or disallowance should be remitted, the Minister may by order direct that the same shall be remitted, but that the amount of the costs and expenses which may have been incurred by the auditor in the enforcing of such surcharge or disallowance, or any portion thereof, shall be recovered from such person.

(h) Every sum certified to be due from any person by the auditor as aforesaid shall be paid by such person to the Commissioner of Local Government within fourteen days after the decision of the auditor has been communicated to such person, unless there is an appeal against the decision ; and if such sum is not so paid and there is no such appeal, it shall be the duty of the Commissioner of Local Government to recover the sum due from such person in the manner specified in paragraph (ha) or paragraph (hb).

[§21.60 of 1961.]

[§21. 60 of 1961.]

(ha) If any sum referred to in paragraph (h) is not paid within the time allowed therefor by that paragraph to the Commissioner of Local Government by the person from whom it is due, such Commissioner may make an application—

[§21, 60 of 1961.]

- (i) where such sum exceeds one thousand five hundred rupees, to the District Court, and
- (ii) where such sum does not exceed one thousand five hundred rupees, to the Primary Court,

within whose jurisdiction such person resides, for the recovery of such sum by seizure and sale of the immovable property

of such person, and upon such application being made, the court shall issue to the Fiscal a writ for the recovery of such sum by the seizure and sale of such immovable property. The provisions of the Civil Procedure Code relating to the seizure and sale of immovable property by the Fiscal in execution of a writ issued by a court and to the making and adjudication of claims in respect of immovable property seized by the Fiscal shall apply to the seizure and sale of immovable property for the recovery of the sum specified in the Commissioner's application and to the making and adjudication of claims in respect of immovable property seized for the recovery of such sum. For the purpose of the application of such provisions the sum so specified shall be deemed to be due on a decree entered by the court and such Commissioner shall be deemed to be the judgment-creditor and the person liable to pay such sum shall be deemed to be the judgment-debtor.

[§21. 60 of 1961.]

(hb) Where the Commissioner of Local Government is of the opinion in any case that recovery from any person of any sum referred to in paragraph (/;) by seizure and sale of such person's immovable property is impracticable or inexpedient, or where the full amount of such sum has not been so recovered, such Commissioner may issue a certificate containing particulars of the amount due from such person and the name and last known place of business or residence of such person to a Magistrate having jurisdiction in the place in which such person resides. The Magistrate shall thereupon summon such person before him to show cause why proceedings for the recovery of the amount due should not be taken against such person, and if no sufficient cause is shown by such person, the amount due shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with a fine only or not punishable with imprisonment, and may be recovered accordingly.

[§21. 60 of 1961.]

(i) Any amount directed to be recovered from any such person by any order made by the Minister under this subsection may forthwith be recovered by the Commissioner of Local Government in the same manner as

any sum certified by the auditor is recoverable under the provisions of this subsection.

(3) Every sum paid or recovered under this section, other than any sum paid or recovered as costs and expenses incurred in the enforcement of any disallowance or surcharge, shall be credited to the communal fund of the Village Council. [§21. 60 of 1961.]

49. (1) All moneys received by a Village Council or by the Chairman of the Council on behalf of the Council, and payable to the communal fund shall, within fourteen days of the receipt thereof, be deposited by the Chairman either— Deposit and use of communal fund. [§22, 60 of 1961.]

- (a) in the nearest Kachcheri; or
- (b) in such of the banks in Sri Lanka as* may be selected by the Council with the sanction of the Minister,

and shall be credited to an account bearing the name of that fund.

(2) Subject to the provisions of subsection (3) of section 56B, no payment shall—

- (a) where the communal fund of a Village Council is maintained in a Kachcheri, be made out of the fund, except by the Government Agent on an order of payment signed and issued by the Chairman of the Council, or by the Vice Chairman of the Council acting under the authority of the Chairman and by an officer of the Council specially authorized by the Council for that purpose; or
- (b) where that fund is maintained in a bank, except on a cheque or an order of payment signed and issued in such manner as may be prescribed by rules which are hereby authorized to be made for the purpose under section 52.

* (4) For the purpose of resolving any doubts as to the legality of any item of expenditure authorized by a resolution of a Village Council, the Chairman of the Council may refer the matter for decision through the Assistant Commissioner to the Commissioner of Local Government. The Commissioner shall communicate his decision on any such reference through the Assistant Commissioner to the Chairman.

(5) Where the Commissioner of Local Government has, on any reference made to him under subsection (4), confirmed the legality of any item of expenditure authorized by a resolution of a Village Council, the Chairman of the Council and every other member thereof shall not, notwithstanding anything to the contrary in section 48, be liable to a surcharge by the auditor under that section in respect of any payment relating to that item of expenditure.

Ex gratia payment of pension, annuity, gratuity or retiring allowance. [§ 4, 7 of 1959.]

49A. (1) A Village Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant out of the communal fund of the village area for which that Council has been constituted, to any person—

- (a) who retires or has retired from service as an officer or servant of that Council, or
- (b) who is or was transferred from such service to, and retires or has retired from, the service of the Government,

a pension, gratuity, or retiring allowance in respect of any period of his service as such officer or servant for which no pension, gratuity, or retiring allowance, or no adequate pension, gratuity, or retiring allowance is payable under any by-laws or rules of that Council or under any pension scheme established or deemed to be established under the Local Government Service Law.

(2) Where no pension, annuity, or gratuity, or no adequate pension, annuity, or gratuity is payable to the widow, children,

next of kin or dependants of any deceased officer or servant of a Village Council under any by-laws or rules of that Council or under any scheme or fund established or deemed to be established under the Local Government Service Law, that Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant to such widow, children, next of kin or dependants; pension, an annuity or a gratuity out of the communal fund of the village area for which that Council has been constituted.

(3) Nothing in subsection (1) or subsection (2) of this section shall be construed to confer on any person any right to any pension, annuity, gratuity or retiring allowance under either of those subsections.

49B. (1) A Village Council may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Public Administration, make by-laws providing for the establishment of, and may establish in accordance with such by-laws, a scheme for the payment of gratuities to temporary officers and servants of that Council upon their discontinuance from the service of that Council.

Power to establish gratuity scheme. [§ 4, 7 of 1959.]

(2) The by-laws made under subsection (1) may be so made by a Village Council as to be applicable to temporary officers and servants of that Council who have been discontinued from the service of that Council before the coming into operation of the by-laws.

50. (1) Every resolution passed by a Village Council relating to the raising of a loan shall specify the rate of interest which is to be paid on the loan and the purposes to which the money is to be applied, and a copy of the resolution shall be submitted forthwith to the Minister for approval.

Interest on loans raised by Village Council.

(2) No loan shall be raised by a Village Council unless the resolution relating thereto has been approved by the Minister with the concurrence of the Minister in charge of the subject of Finance.

* Subsection (3) is repealed by Law No. 24 of 1977.

(3) The Minister's approval of a resolution passed by a Village Council relating to the raising of a loan shall not be necessary if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which the loan referred to in such resolution is to be raised.

Waiver of sums due to a Village Council. [§ 23, 60 of 1961.]

50A. A Village Council may by resolution waive the whole or any part of any sum of money due to the Council from any person on the ground that the amount to be waived is inconsiderable or irrecoverable or on the ground of the poverty of such person. A resolution relating to the waiver of an amount exceeding fifty rupees shall be subject to the approval of the Minister.

PART V

SUPPLEMENTAL PROVISIONS RELATING TO VILLAGE COUNCILS

Payment of costs awarded against Village Councils.

51. All costs, charges, and expenses arising from or in respect of any suit, action, or legal proceeding, which a Village Council may become liable to pay, shall be paid from the communal fund ; and no member of the Village Council or inhabitant of the village area shall be personally liable for the payment thereof.

Rules as to meetings, land tax and finance.

52. (1) The Minister may make rules not inconsistent with the provisions of this Ordinance, on any matter connected with the execution or enforcement of those provisions, and without prejudice to the generality of the powers hereby conferred, may make such rules on all or any of the following matters:—

- (a) the form of the notice summoning meetings of a Village Council, the intervals at which ordinary meetings are to be held, and the procedure to be followed in the conduct of meetings;

*(b) the manner in which the land tax is to be imposed and levied, or, in cases of default, recovered summarily by a Village Council and the manner in which property is to be assessed for the purposes of that tax;

(c) the manner in which any rate is to be imposed and levied, or, in cases of default, recovered summarily by a Village Council, and the manner in which property is to be assessed for the purposes of any such rate;

(b) the manner in which any rent or fee which is not payable in advance under the by-laws made by a Village Council, may be recovered summarily by the Village Council in the event of default being made in the payment thereof;

(e) the several matters appertaining to finance and the administration of funds and other property for which rules are required under section 48, and all other matters connected therewith or incidental thereto ;

(ea) the rates of subsistence and travelling allowances payable to members or officers or servants of Village Councils by way of reimbursement of expenses incurred in the performance of any duty; [§ 24.60 of 1961.]

(eb) the rates of travelling allowances payable to members of a Village Council for attendance at meetings of the Council; [§ 24, 60 of 1961.]

(ec) the rates at which allowances payable to the Chairman, Vice-Chairman and members of a Village Council; [§ 172, Law 24 of 1977.]

(f) the returns to be rendered periodically by the several Village Councils to the Minister ;

(ff) the receipt and disposal of stores and equipment, the keeping of [§ 24, 60 of 1961.]

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance, -Sec section 76 thereof.

inventories and the manner in which such inventories shall be kept;

[§ 24, 60 of 1961.]

- (g) the appointment, discipline, suspension and dismissal of officers and servants of Village Councils who are not members of the Local Government Service, and—
 - (i) the qualifications necessary for appointment to posts or offices not being posts in the Local Government Service;
 - (ii) the scales of the salaries to be assigned to such posts or offices;
 - (iii) the terms and conditions, and the duration, of any leave of absence that may be granted to such officers and servants;
 - (iv) provident funds for the benefit of such officers and servants of Village Councils as are not members of the Local Government Service •
- **(i)* the powers and duties of the Chairman in his capacity of chief executive officer of a Village Council;
- (j)* the procedure to be followed by a Village Council before any area, to which by-laws under section 42 (2) (vii) are to apply, is defined.

(2) Every rule made by the Minister under this section shall be published in the Gazette and shall be brought before Parliament as soon as may be after such publication, by a motion that such rule shall be approved.

(3) Every rule made by the Minister shall, when approved by Parliament, be as valid and effectual as if it were herein enacted, and shall prevail over any by-law made or deemed to be made by, or any power vested in, a Village Council in respect of the same matter or for the same purpose. Notification of such approval shall be published in the Gazette.

[§ 24, 60 of 1961.]

Publication of by-laws and translation in village area.

53. (1) As soon as may be after the publication, in the Gazette, of any by-law made by a Village Council under section 42,

the Assistant Commissioner shall cause such by-law to be translated and printed at the expense of the Council in the language or languages prevailing in the village area in which the by-law is to be enforced.

(2) The Village Council shall cause copies of the by-law, in Sinhala and Tamil, to be made available for purchase at the Village Council office at such price as may be fixed by the Assistant Commissioner.

54. (1) If at any time the Minister is satisfied that there is sufficient proof of—

Removal of Chairman and dissolution of Council. [§ 173, Law 24 of 1977.]

- (a)* incompetence and mismanagement; or
- (b)* persistent refusal or wilful neglect to perform the duties imposed by this Ordinance; or
- (c)* misconduct in the performance of those duties; or
- (d)* persistent disobedience to or disregard of the direction, instructions or recommendations of the Minister; or
- (e)* abuse of the powers conferred by this Ordinance,

on the part of the Chairman of a Village Council or any of the members thereof the Minister may as the circumstances of each case may require by Order published in the Gazette—

- (i)* remove the Chairman from office ; or
- (ii)* remove all or any of the members of 'the Council from office and the provisions of section 15 shall thereupon apply; or
- (iii)* dissolve the Village Coun"cil and either direct that a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing a fresh Village Council for the village area for which the dissolved Village Council was constituted or direct any public officer to administer

* Paragraph *(h)* is repealed by Act No. 60 of 1961.

the affairs of that village area for such period as may be specified in the Order;

and such Order shall as soon as may be convenient be laid before Parliament.

[§ 173, Law 24 of 1977.]

(2) The Minister shall before making an Order under subsection (1) appoint, for the purpose of satisfying himself in regard to any of the matters referred to in subsection (1), a retired judicial officer to inquire into and report upon such matter within a period of three months, and such officer shall in relation to such inquiry have the powers of a commission of inquiry appointed under the Commissions of Inquiry Act.

[§ 173, Law 24 of 1977.]

(2A) (a) When the Minister appoints a retired judicial officer under subsection (2) to inquire into any matter, the Minister may, as the circumstances of each case may require, by Order published in the Gazette—

- (i) suspend the Chairman from office and direct the Vice-Chairman or, where the office of Vice-Chairman is vacant or where the Vice-Chairman has been suspended, the Assistant Commissioner of Local Government of the region to exercise the powers and perform the duties of the Chairman ; or
- (ii) suspend any of the members from office; or
- (iii) suspend the Council and direct the Assistant Commissioner of Local Government of the region to exercise the powers and perform the duties of the Council and its Chairman.

(A) Upon the receipt of the report of the person appointed under subsection (2) the Minister may make an Order under subsection (1) or revoke the Order made under paragraph (a) of this subsection.

[§ 6. 48 of 1971.1

(3) (a) Where an Order is made by the Minister under subsection (1) removing a person from the office of Chairman, the Minister may by a subsequent Order published in the Gazette revoke the first-mentioned Order, and the publication of

such subsequent Order in the Gazette shall have the following effect, and the following effect only, namely that such person shall, notwithstanding the provisions of subsection (3) of section 9 of the Local Authorities Elections Ordinance, cease, with effect from the date of such publication, to be subject to the disqualification set out in the aforesaid subsection (3).

(b) Where the provisions of paragraph (a) are in conflict or inconsistent with any other provisions of this Ordinance or of the Local Authorities Elections Ordinance, the provisions of paragraph (a) shall prevail.

54A. Where the Minister is of opinion that a local authority should be constituted for an area which is or includes a village area or a part of a village area, he may, by Order published in the Gazette, dissolve the Village Council of that village area and direct any public officer to administer the affairs of that village area for such period as may be specified in the Order.

Dissolution of Village Council for the purpose of constituting a local authority. [§2,3 of 1962.]

55. Upon the publication of an Order under section 54 or section 54A the following consequences shall ensue :—

Consequences of order for removal of Chairman or dissolution of Council. [§4,2 of 1957.] [§3,3 of 1962.]

- (a) if the Order removes the Chairman from office, he shall be deemed to vacate forthwith the office of member of the Council as well as the office of Chairman;
- (b) if the Order directs any public officer to administer the affairs of the area, all the property and the rights under contracts, and all the powers vested in the Council or its Chairman by this Ordinance or any other written law shall be deemed to be vested in that public officer, and all the liabilities and duties of the Council or its Chairman under this Ordinance or any other written law shall be deemed to be transferred to and shall be discharged by that public officer, until the end of the period specified in the Order.

Provision for constitution of a Village Council out of an area within the administrative limits of a local authority. [§31, 48 of 1971.]

55A. (1) Where a Village Council is constituted under this Ordinance out of an area which is wholly or partly within the administrative limits of any Municipal Council, Urban Council, or Town Council, the provisions of sections 230 to 245 of the Urban Councils Ordinance shall, mutatis mutandis, apply in relation to the constitution of such Village Council.

(2) In connection with the preliminary arrangements necessary for the constitution of a Village Council under subsection (1), the Minister may, by Order published in the Gazette, issue all such directions as he may deem necessary with a view to providing for any unforeseen or special circumstances or to determining or adjusting any question or matter for the determination or adjustment of which no provision or no effective provision is made by this Ordinance.

Breach of by-laws to be an offence.

56. Every breach of a by-law made or deemed by virtue of any written law to have been made under this Ordinance, shall be an offence punishable in the manner provided by Part II of the Primary Courts' Procedure Act by the Primary Court having jurisdiction over the area in which the breach takes place.

Power of Minister to make inquiry as to default in duly by Village Councils. [§ 26, 60 of 1961.]

56A. (1) If at any time it appears to the Minister that any Village Council is omitting to perform any duty or to carry out any work imposed upon the Council by this Ordinance or any other written law, or that the Council has otherwise made default in the performance of any of its duties or the discharge of any of its responsibilities under this Ordinance or any other written law, the Minister may in writing give notice to the Council that, unless within such time as shall be specified in the notice the Council shows cause to the contrary, the Minister will appoint a person or persons to inquire into and report upon such omission or default to the Minister and to make recommendations as to the measures that should be taken for the purpose of performing such duty or carrying out such work or making good such default.

(2) Where any cause or sufficient cause is not shown by any Village Council to which notice is given under subsection (1), the Minister shall appoint a person or

persons to hold the inquiry referred to in the notice. Such inquiry shall be held as far as practicable in public.

56B. (1) On the receipt of the report of the person or persons appointed to hold an inquiry under section 56A, the Minister shall determine what measures shall be taken for the purpose of performing any duty or carrying out any work which the Village Council has omitted to perform or carry out or in respect of which the Village Council has made any default, and make in writing an order requiring the Council within such time as shall be specified in the order to take such measures accordingly, and to raise the funds necessary for the purpose by levying any one or more of the rates or taxes leviable under this Ordinance or by means of a loan.

Power of Minister to give and enforce order requiring a Village Council to do necessary work. [§ 26, 60 of 1961.]

(2) If a Village Council fails to comply with an order made under subsection (1) within the time specified therein, the Minister may in writing appoint some person to take the measures specified in the order, and may in writing fix the remuneration to be paid to such person, and direct that such remuneration and the cost of the measures taken in accordance with the order of the Minister shall be paid or defrayed out of the communal fund of the Council, and that, if necessary, any one or more of the rates or taxes leviable under this Ordinance shall be imposed, or increased, and levied.

(3) For the purpose of carrying out a direction of the Minister under subsection (2), any person appointed under that subsection shall have the power—

- (a) to impose, or increase, and levy any such rate or tax as may be imposed, or increased, and levied by the Village Council affected by such direction; and
- (b) to sign and issue a cheque or an order of payment for the withdrawal of, and to withdraw, any sum from the communal fund of the Council,

and he shall, after paying or defraying all sums and expenditure authorized by such direction to be paid or defrayed by him, pay to the communal fund of the Council the surplus, if any, of the moneys received by him in the exercise of his powers under this subsection.

Power of Minister to direct a person appointed under section 56B (2) to raise loan. [§ 26, 60 of 1961.]

56C. The Minister may direct a person appointed under subsection (2) of section 56B in respect of any village area, in addition to imposing, or increasing, and levying any rate or tax in that village area or in lieu thereof, to raise a loan from the Local Loans and Development Commissioners on the security of any rate or tax in that village area for the purpose of performing any duty, or carrying out any work, or making good any default under that section.

Power of Minister to certify expenses. [§ 26, 60 of 1961.]

56D. The Minister may, from time to time, certify the amount of the expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed under subsection (2) of section 56B, and the amount of any loan required to be raised for the purpose of defraying the expenses that have been so incurred, or are estimated as about to be incurred, and a certificate of the Minister shall be conclusive as to all matters to which it relates.

Power of Local Loan Commissioners to give a loan which is certified under section 56n. [§ 26, 60 of 1961.]

56E. (1) Whenever the Minister under section 56D certifies a loan to be necessary in respect of any village area, the Local Loans and Development Commissioners may lend to the Commissioner of Local Government or the person appointed under subsection (2) of section 56B the amount of such loan on the security of any rate or tax in that village area without requiring any other security.

(2) The Commissioner of Local Government or the person appointed under subsection (2) of section 56B may, as security for any such loan referred to in subsection (1) as is obtained for any village area, mortgage any rate or tax in that village area, and such mortgage shall have the same effect as if it had been made by the Village Council of that village area.

56F. (1) The principal and interest due in respect of any loan raised for payment of any expenses incurred or to be incurred under this Part in respect of any village area shall be deemed to be a debt due from the Village Council of that village area, and, in addition to any other remedies, may be recovered in the manner provided by the Local Loans and Development Ordinance.

Recovery of principal and interest from the Village Council. [§ 26, 60 of 1961.]

(2) The surplus of any loan, after payment of such expenses in respect of any village area as are referred to in subsection (1), shall, after that surplus certified by the Minister, be paid to the communal fund of the Village Council of that village area.

56G. Any power, duty or function vested in or imposed on or assigned to the Commissioner of Local Government by or under this Ordinance, may be exercised, performed or discharged by any Assistant Commissioner generally or specially authorized thereto in writing by the Commissioner, subject to the directions and control of the Commissioner, for such period and to such extent, if any, as may be specified in such written authority.

Delegation of powers or duties of Commissioner of Local Government to Assistant Commissioners. [§ 26, 60 of 1961.]

56H. The Minister may in writing direct the Chairman of a Village Council to transmit to the Minister for inspection any such book or document as relates to any affair of the Council.

Minister's power to call for and inspect any book or document of a Village Council. [§ 26, 60 of 1961.]

57. (1) The Commissioner of Local Government shall prepare and transmit to the Chairman of each Village Council a report containing a general survey of the affairs of the Council in each year, and the Chairman shall cause such report to be tabled for the information of the members of the Council at the next meeting of the Council held after the receipt of such report.

Annual report of Commissioner of Local Government on affairs of each Village Council.

(2) For the purpose of preparing the report referred to in subsection (1), the Commissioner of Local Government or any officer generally or specially authorized in

that behalf by him may—

- (a) inspect any public building, immovable property or institution used, occupied or carried on by or on behalf of any Village Council or any work in progress under the direction of any Village Council;
- (b) call for and inspect any book or document in the possession or under the control of any Village Council; and
- (c) require any Village Council to furnish accounts of income and expenditure, reports or copies of documents relating to the proceedings or duties of the Council and such other information as may be considered necessary by the Commissioner of Local Government.

Naming of roads or paths. [§ 6, Law 4 of 1975.]

57A. The Minister shall, either of his own motion or on application made in that behalf by a Village Council, determine the name by which any road or path shall be known and in like manner alter at any time the name of any road or path.

PART VI
GENERAL

Interpretation. 58. (1) In this Ordinance, unless the context otherwise requires,—

"administrative region" means an administrative region defined by Order made under section 2 of the Local Government (Administrative Regions) Ordinance;

" annual value " * means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for any house, building, land, or tenement, if the tenant undertook to pay all public rates and taxes, and if the landlord undertook to bear the cost of insurance, repairs, maintenance, and upkeep, if any, necessary to

maintain the house, building, land, or tenement in a state to command that rent:

Provided that in the computation and assessment of annual value—

- (a) the probable annual average cost of such insurance, repairs, maintenance, and upkeep shall be deducted ;
- (b) no allowance or reduction shall be made for any period of non-tenancy whatsoever;

" Assistant Commissioner ", in relation to any village area, means the Assistant Commissioner of Local Government for the administrative region within which the village area is situated;

" Commissioner of Local Government " includes any Deputy Commissioner of Local Government;

" co-operative society " means any society registered under any law for the time being in force relating to such societies;

" district " means an administrative district•

" elections officer " means the elections officer of a district appointed under the provisions of written law for the time being applicable in that behalf and includes any assistant elections officer so appointed;

" excepted persons " means persons resident in Sri Lanka and being—

- (a) persons commonly known as Europeans,
- (b) persons commonly known as Burghers, and
- (c) labourers as defined in the Estate Labour (Indian) Ordinance, including any woman or child related to any such labourer or any aged or incapacitated relative of any such labourer;

* Shall not have effect in such areas as may be specified in an Order under Section 2 of the Rating and Valuation Ordinance.—See Section 76 thereof.

"first general election " means a general election held for the purposes of electing the first members of a Village Council to be constituted for a village area under this Ordinance;

" Fiscal" includes a Deputy Fiscal;

" Government Agent" includes an Assistant Government Agent;

"inhabitant" means any male inhabitant who is not an excepted person and is above the age of eighteen years;

"local authority" means a Municipal Council, Urban Council, or Town Council;

[§ 27,60 of 1961-]

" Local Government Service " means the Local Government Service constituted or deemed to be constituted by the Local Government Service Law ;

"plantation " includes any land on which tea, coffee, cacao, cardamoms, cinchona, or rubber is growing, and any coconut estate of over five acres in extent;

" produce " includes the fruit, leaf, bark, latex, and roots of any plant or tree cultivated on a plantation;

" village area " means a portion of a divisional Assistant Government Agent's division declared to be a village area by Order under section 3 or deemed by virtue of any written law to be a village area under this Ordinance;

(2) In determining for the purposes of [§ 5.4 of this Ordinance the annual value of any 1969-] premises to which the Rent Act applies, and in assessing the annual rent of such premises for the purposes of such determination, a Village Council shall not have regard to the provisions of that Act.

[Section 39.]

FIRST SCHEDULE

	Rs.	c.
For every carriage of whatever description other than a cart, hackery, or jinricksha	..	5 0
For every double bullock cart or hackery of whatever description	4 0
For every single bullock cart or hackery or handcart	2 50
For every jinricksha	2 50
For every bicycle	1 0
For every—		
Elephant	10 0
H o r s e	5 0
Mule	2 50
Donkey	2 50

[Section 41.]

SECOND SCHEDULE

'All fines, penalties and other sums, recovered by the Village Council of a village area or by a Primary Court having jurisdiction over that area, in respect of breaches, committed within that area, of the following provisions of written law :—

- (1) The by-laws made or deemed by virtue of any written law to have been made under this Ordinance.
- (2) The Nuisances Ordinance.
- (3) Any other written law the administration of which is entrusted to the Village Council and which is added to this list of written laws by the Minister by Order published in the Gazette.

All fines and penalties recovered within the administrative limits of the village area under—

[§ 28, 60 of 1961.]

- (a) the Excise Ordinance ;
- (b) the Street Collections (Regulation) Ordinance;
- (c) the Poisons, Opium, and Dangerous Drugs Ordinance ;
- (d) the Food and Drugs Act ;*
- (e) the Pawnbrokers Ordinance;
- (f) the Public Performances Ordinance ;
- (g) the Prevention of Cruelty to Animals Ordinance ;
- (h) the Local Authorities Elections Ordinance.

THIRD SCHEDULE

[Section 41.]

1. All stamp duties and fees paid by or recovered from the inhabitants of the village area under—

- (a) The Boats Ordinance.
- (b) The Butchers Ordinance.
- (c) The Vehicles Ordinance.
- (d) Any other enactment the operation of which is extended to the village area.

2. All stamp duties and fees paid in respect of licences by the inhabitants of the village-area under—

- (a) The Masters Attendant Ordinance.
- (b) The Petroleum Ordinance.
- (c) The Explosives Act.
- (d) The Firearms Ordinance.
- (e) The Poisons, Opium, and Dangerous Drugs Ordinance.
- (f) The Public Performances Ordinance.

[§ 29, 60 of 1961.]

3. (I) All stamp duties paid by inhabitants of the village area—

[§ 2, 9 of 1961.]

- (a) as attorneys-at-law on certificates of admission under section 40 (2) of the Judicature Act;
- (b) as notaries, on warrants, certificates and declarations issued under sections 3, 27 and 28 of the Notaries Ordinance;
- (c) in respect of articles of apprenticeship or upon any contracts whereby any person first becomes bound in order to qualify himself as a notary.
- (d) as pawnbrokers, on licences issued under section 3 of the Pawnbrokers Ordinance ;
- (e) under the Stamp Ordinance! in respect of transfers, mortgage bonds, gifts and leases.

[§ 2, 9 of 1961.]

[§ 29, 60 of 1961.]

[§ 29, 60 of 1961.]

* Repealed and replaced by the Food Act, No. 26 of 1980, with effect from 1st February, 1981.
T Repealed and replaced by the Stamp Duty Act, No. 43 of 1982.

CHAPTER 556

VENEREAL DISEASES

Ordinance AN ORDINANCE TO PREVENT THE TREATMENT OF VENEREAL DISEASE OTHERWISE THAN
 No. 27 of 1938. BY REGISTERED MEDICAL PRACTITIONERS OR SPECIALLY AUTHORIZED
 PRACTITIONERS OF AYURVEDIC MEDICINE, AND TO CONTROL THE SUPPLY OF
 REMEDIES THEREFOR, AND FOR OTHER MATTERS CONNECTED THEREWITH.

[21st July. 1938.]

Short title. **1.** This Ordinance may be cited as the Venereal Disease Ordinance.

Prevention of treatment of venereal disease otherwise than by duly qualified or specially authorized persons. **2.** (1) In any part of Sri Lanka to which the provisions of this section apply, no person other than—

- (a) a registered medical practitioner; or
- (b) a practitioner of ayurvedic medicine who has been specially thereto authorized in writing by the Minister,

shall, for reward either direct or indirect, treat any person for venereal disease or prescribe any remedy therefor or give any advice in connexion with the treatment thereof, whether the advice is given to the person treated or to any other person.

(2) The Minister may by Order published in the Gazette, direct that the provisions of this section shall apply to the whole or any specified part of Sri Lanka.*

Restriction on advertisements, &c. **3.** (1) No person shall by advertisement or any public notice or announcement treat or offer to treat any person for venereal disease, or prescribe or offer to prescribe any remedy therefor, or offer to give or give any advice in connexion with the treatment thereof.

(2) No person shall hold out or recommend to the public by any notice or advertisement, or by any written or printed papers or handbills, or by any label or

words written or printed affixed to or delivered with, any packet, box, bottle, phial, or other inclosure containing the same, any pills, capsules, powders, lozenges, tinctures, potions, cordials, electuaries, plaisters, unguents, salves, ointments, drops, lotions, oils, spirits, medicated herbs and waters, chemical and officinal preparations whatsoever, to be used or applied externally or internally as medicines or medicaments for the prevention, cure, or relief of any venereal disease:

Provided that nothing in this section shall apply to any advertisement, notification, announcement, recommendation, or holding out made or published by any person with the sanction in writing of the Minister, or to any publication sent only to registered medical practitioners or to wholesale or retail chemists for the purposes of their business.

4. Any person who does any act in contravention of any of the provisions of this Ordinance shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment. Penalties.

5. In this Ordinance, unless the context otherwise requires—

"ayurvedic medicine" includes the systems of medicine known as Ayurveda, Siddha and Unani;

* Made applicable to the whole of Sri Lanka—Gazette No. 9,047 of 7th December, 1942.

"registered medical practitioner" means a person registered as a medical practitioner under the Medical Ordinance ;

"venereal disease" means syphilis, gonorrhoea or soft chancre and includes any complication of any such disease.

CHAPTER 629

VISITING FORCES

Acts
Nos.31 of 1949,
36 of 1950.

AN ACT TO MAKE PROVISION WITH RESPECT TO THE COMMAND AND DISCIPLINE AND OTHER MATTERS RELATING TO VISITING FORCES OF ANY FOREIGN POWER.

[10th October. 1949.]

Short title.

1. This Act may be cited as the Visiting Forces Act.

exercising jurisdiction by virtue of the laws of Sri Lanka and by witnesses appearing before such a court.

Application of Act.

2. (1) The succeeding provisions of this Act shall apply to, and in relation to, a visiting force if, and only so long as, an Order made by the President is in force declaring that those provisions shall apply to that visiting force.

(3) Where any sentence has, whether within or without Sri Lanka, been passed upon a member of a visiting force by a service court of the territory to which that visiting force belongs, then for the purposes of any legal proceedings within Sri Lanka the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of that territory, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a visiting force who is detained in custody in pursuance of any such sentence, or pending the determination by a service court of the territory to which that visiting force belongs of a charge brought against him, shall, for the purposes of any such proceedings, be deemed to be in lawful custody.

(2) An Order under subsection (1) may declare that all the succeeding sections of this Act or any specified sections shall apply in relation to any visiting force.

(3) Every Order under subsection (1) 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.

Discipline and internal administration of visiting forces.

3. (1) When a visiting force is present in Sri Lanka or is on board any ship or aircraft of the territory to which that visiting force belongs, it shall be lawful for the naval, military and air-force courts and authorities (hereinafter referred to as the "service courts" and "service authorities") of the territory to which that visiting force belongs to exercise within Sri Lanka, in relation to members of that visiting force in matters concerning discipline and in matters concerning internal administration of that visiting force, all such powers as are conferred upon them by the law of that territory.

(4) For the purposes of any legal proceedings referred to in subsection (3), a certificate under the hand of the officer commanding a visiting force that a member of that visiting force is being detained for either of the causes referred to in that subsection shall be conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of the territory to which that visiting force belongs shall be conclusive evidence of that fact.

(2) The members of any service court exercising jurisdiction by virtue of this Act, and witnesses appearing before such court shall enjoy the like immunities and privileges as are enjoyed by a service court

(5) No proceedings in respect of the pay, terms of service or discharge of a member of a visiting force shall be entertained by any civil court in Sri Lanka.

(6) For the purposes of enabling service courts and service authorities to exercise more effectively the powers conferred upon them by this section, the Minister, if so requested by the officer commanding a visiting force or by the Government of the territory to which that visiting force belongs, may, from time to time, by general or special order to any armed force of Sri Lanka direct the members thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of that territory and to hand over any person so arrested to the appropriate authorities of that visiting force.

Powers as to armed forces of Sri Lanka may upon request be exercised as to visiting forces.

4. (1) The Minister may by order authorize any other Minister or any Government department or other person in Sri Lanka to perform, at the request of such authority or officer as may be specified in the order, but subject to such limitations as may be so specified, any function in relation to a visiting force and members thereof which such other Minister or department or person performs or could perform in relation to any armed force of Sri Lanka of like nature to the visiting force or in relation to members of any armed force of Sri Lanka; and for the purpose of the exercise of any such function, any power exercisable by virtue of any law by such other Minister or department or person in relation to any armed force of Sri Lanka or members thereof shall be exercisable by such other Minister, department or person in relation to the visiting forces and members thereof:

Provided that nothing in this subsection shall authorize any interference in matters relating to discipline or to the internal administration of the visiting force.

(2) If the Minister so provides, members of a visiting force, if sentenced, by a service court of the territory to which that visiting force belongs, to penal servitude, imprisonment or detention, may under the authority of the Minister, given at the request of the officer commanding that visiting force, be temporarily detained in custody in prisons or detention barracks in Sri Lanka, and if so sentenced to imprisonment may, under the like authority,

be imprisoned during the whole or any part of the terms of their sentences in prisons in Sri Lanka; and the Minister may by the same or a subsequent order make provision with respect to any of the following matters, that is to say, the reception of such persons from, and their return to, the service authorities concerned, their treatment while in such custody or while so imprisoned, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody or while so imprisoned.

(3) Subject as hereinafter provided, any law in force in Sri Lanka which—

(a) exempts, or provides for the exemption of, any members of the armed forces of Sri Lanka or of any of those forces or any vessel, vehicle, aircraft, machine or apparatus of or employed for the purposes of those forces or any of them, from the operation of any law, or applies, or provides for the application of, any law in a modified form to or in relation to any such members, vessel, vehicle, aircraft, machine or apparatus; or

(b) in virtue of a connexion with the armed forces of Sri Lanka or any of them, confers a privilege or immunity on any persons; or

(c) in virtue of such a connexion, excepts any property, trade or business, in whole or in part, from the operation of any law or from any tax, rate, imposition, toll or charge; or

(d) imposes upon any person or undertaking obligations in relation to the armed forces of Sri Lanka or any of them, or any member or service court thereof; or

(e) penalizes misconduct by any person in relation to the armed forces of Sri Lanka or any of them, or any member or service court thereof,

shall, with any necessary modifications, apply in relation to a visiting force as it

would apply in relation to any armed force of Sri Lanka of a like nature to that visiting force:

Provided that the Minister may direct that any such law shall not apply, or that it shall apply either with such exceptions and subject to such adaptations or modifications as may be specified in the order.

(4) An order under this section may apply either generally or in relation to any particular visiting force or in relation to any particular place.

5. (1) Subject as provided in this section, the law in force in Sri Lanka relating to the arrest of deserters and absentees without leave shall apply in relation to a deserter or absentee without leave from any visiting force (including any member of a reserve or auxiliary force who, having failed to obey a notice calling upon him to appear at any place for service, is by the law of the territory to which the visiting force belongs liable to the same punishment as a deserter, or to the same punishment as an absentee without leave), as they apply in relation to a deserter, or absentee without leave, from any armed force of Sri Lanka.

(2) No person who is alleged to be a deserter or absentee without leave from a visiting force shall be arrested or dealt with under this section except in compliance with a specific request from the Government of the territory to which that visiting force belongs, and a person so dealt with shall be handed over to the authorities of that territory at such place in Sri Lanka as may be agreed:

Provided that a person who is alleged to be a deserter or absentee without leave from a visiting force may also be arrested and dealt with under this section in compliance with a request, whether specific or general, from the officer commanding that visiting force, and shall, if that visiting force is still present in Sri Lanka, be handed over to the officer commanding that visiting force at the place where that visiting force is stationed.

(3) For the purposes of any proceedings under this section—

(a) a document purporting to be a certificate under the hand of the Minister or the Secretary to the

Ministry that a request has been made under subsection (2) of this section, shall be admissible without proof as evidence of such a request;

(b) a document purporting to be a certificate under the hand of the officer commanding any ship, unit or detachment of any visiting force that a specified person was at the date of the certificate a deserter, or absentee without leave, from that visiting force shall be admissible without proof of the facts so certified.

6. (1) The Minister or any person acting under his authority may attach temporarily to any armed force of Sri Lanka any member of a visiting force who is placed at his disposal for the purpose by the service authorities of the territory to which that visiting force belongs.

Attachment of personnel with mutual powers of command.

(2) Subject to anything to the contrary in the conditions applicable to the service of any member of any armed force of Sri Lanka, the President may place that member at the disposal of the service authorities of the territory to which a visiting force belongs for the purpose of being attached temporarily by those authorities to that visiting force.

(3) Whilst a member of a visiting force is by virtue of this section attached temporarily to any armed force of Sri Lanka, he shall be subject to the law relating to the appropriate armed force of Sri Lanka, in like manner as if he were a member of that armed force, and shall be treated and have the like powers of command and punishment over members of that armed force of Sri Lanka to which he is attached as if he were a member of that force of relative rank :

Provided, however, that the Minister may direct that, in relation to members of any visiting force who are so attached, the law relating to the armed forces of Sri Lanka shall apply with such exceptions and subject to such adaptations and modifications as may be specified by the Minister.

Deserters and absentees from visiting forces.

(4) When any armed force of Sri Lanka and a visiting force are serving together, whether alone or not—

(a) every member of the visiting force shall be treated and shall have over members of that armed force of Sri Lanka the like powers of command as if he were a member of that armed force of Sri Lanka of relative rank; and

(b) if the forces are acting in combination, any officer of the visiting force appointed by the President to command the combined force or any part thereof, shall be treated and shall have over members of that armed force of Sri Lanka the like powers of command and punishment, and may be invested with like authority to convene, and to confirm the findings and sentences of, courts martial as if he were an officer of that armed force of Sri Lanka of relative rank and holding the same command.

(5) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if, and only if, they are declared to be so serving or so acting by order of the President, and the relative rank of members of that armed force of Sri Lanka and of the visiting forces shall be such as may be prescribed by regulations made under section 10.

Limitation of penalties.

7. Subject to any provision to the contrary which the President is hereby authorized by Order published in the Gazette to make in relation to any specified visiting force, nothing in this Act shall be construed to authorize a service court of any territory to impose on a member of a visiting force of that territory in respect of any offence any penalty exceeding the penalty to which a member of any of the armed forces of Sri Lanka would under the law of Sri Lanka be liable for a similar offence.

Saving for jurisdiction of civil courts.

8. (1) Nothing in the preceding provisions of this Act shall affect the jurisdiction of any civil court in Sri Lanka to try a member of any visiting force for any act or omission constituting an offence against the law of Sri Lanka.

(2) If a person sentenced by a service court to punishment for an offence is afterwards tried by any civil court in Sri Lanka in respect of any act or omission which constituted that offence, the civil court shall, in awarding punishment in respect of that act or omission, have regard to any punishment imposed on him by the said sentence.

(3) A service court shall not have jurisdiction by virtue of the preceding provisions of this Act to try any person for any act or omission constituting an offence for which he has been acquitted or convicted by any civil court in Sri Lanka.

9. (1) The President may, by Order published in the Gazette—

Visiting forces may maintain special police forces.

(a) authorize the officer commanding any visiting force to raise and maintain a special police force in Sri Lanka, and

(b) specify the establishments in respect of which that special police force is empowered to exercise police functions.

(2) Subject to such conditions and limitations as may be prescribed by regulations made under section 10, the organization, classification, training, discipline, remuneration, clothing, accoutrements and equipment of the members of a special police force raised under the authority of an Order under subsection (1) shall be such as may, from time to time, be determined by the officer commanding the visiting force or any officer authorized by him in that behalf.

(3) Every member of a special police force raised under the authority of an Order under subsection (1) shall, subject to such conditions and limitations as may be prescribed by regulations made under section 10, have within the limits of each establishment in respect of which that special police force is empowered to exercise police functions and in the immediate vicinity thereof, all the powers, protection and immunities conferred on a member of the Sri Lanka Police Force of corresponding rank by any written law for the time being in force.

(4) Regulations may be made under section 10 specifying the circumstances in which, the officers by whom, and the conditions and restrictions subject to which, punishments may be imposed on any member of a special police force in case of—

- (a) the neglect or refusal to obey any lawful order or direction given or issued to him in the course of his duties as such;
- (b) the commission of any act of misconduct in the performance of such duties; or
- (c) his desertion from that special police force.

(5) Any regulation referred to in this section may be made applicable to all special police forces or to any particular special police force specified in the regulation.

(6) The preceding provisions of this section and any regulation referred to in this section shall have effect notwithstanding anything to the contrary in any other written law.

10. (1) The Minister may, from time to time, make regulations not inconsistent with the provisions of this Act as may be necessary for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation on the date on which it is so published.

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

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

(5) Notification of the date on which any regulation made by the Minister is deemed

to be rescinded shall be published in the Gazette.

11. In this Act unless the context otherwise requires—

" armed forces of Sri Lanka " means the Sri Lanka Army, Sri Lanka Navy and the Sri Lanka Air Force, and " Armed Force of Sri Lanka " means any one of the units of such armed forces and includes any body, contingent or detachment of any one of such units;

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

" court " includes a service court of inquiry and any officer of a visiting force who is empowered by the laws of the territory to which that visiting force belongs to review the proceedings of a service court, or to investigate charges or himself to dispose of charges, and the expression " sentence " shall be construed accordingly;

" forces " includes reserve and auxiliary forces;

" internal administration ", in relation to any visiting force, includes the administration of the property of a deceased member of the visiting force;

" member ", in relation to a visiting force, includes any person who is by the law of the territory to which the visiting force belongs subject to the naval, military or air-force law thereof, and who being a member of another force is attached to the visiting force, or being a civilian employed in connexion with the visiting force entered into his engagement outside Sri Lanka;

" the Minister " means the Minister in charge of the subject of Defence; and

" visiting force " means any body, contingent or detachment of the naval, military or air forces raised by any Government other than the Government of Sri Lanka, which is with the consent of the Government of Sri Lanka, lawfully present in Sri Lanka.

Regulations.

CHAPTER 510

VICTORIA HOME FOR INCURABLES

Ordinances

Nos. 7 of 1903, 13 of 1928, AN ORDINANCE TO INCORPORATE THE COMMITTEE OF THE INSTITUTION KNOWN AS THE VICTORIA HOME FOR INCURABLES.

Acts

Nos. 21 of 1951, 12 of 1952, 22 of 1955, 10 of 1956.

[1st December. 1903.]

Short title. 1. This Ordinance may be cited as the Victoria Home for Incurables Ordinance.

Incorporation. 2. The Colonial Secretary, Henry Lorenz Wendt, the Colonial Treasurer, Colin Alexander Murray, the Principal Civil Medical Officer, John Ferguson, Sir William Wilson Mitchell, the Mayor of Colombo, the Rev. Arthur Edwin Dibben, the Rev. Osmund Beven, Keith William Bruce Macleod, Jacob de Mel, Alexander de Alwis Seneviratne, the Rev. William Arthur Stone, Lewis Walker, and Frederick Morgan de Saram, being the present members of the committee of the Victoria Home for Incurables, and their respective successors appointed in manner hereinafter provided, are hereby associated together and shall for ever hereafter be and be called a body corporate in deed and in law by the name and style of "The Incorporated Victoria Home for Incurables", under which name the corporation hereby constituted may sue and be sued :

Provided, further, that from the 1st day of March, 1951, the Deputy Secretary to the Treasury, shall be a member of the said committee for all purposes whatsoever in place of the Colonial Treasurer, and the said committee shall, from the said date, be, and be deemed to have been, incorporated as hereinbefore provided with the Deputy Secretary to the Treasury, as a member thereof in place of the Colonial Treasurer.

3. The Incorporated Victoria Home for Incurables (which is hereinafter referred to as "the Victoria Home") shall have an official seal which shall be officially and judicially noticed, and that seal shall be authenticated by the signature of the secretary or some person authorized by rule passed under this Ordinance to act on behalf of the secretary. Power to use Common seal.

4. All moneys, goods, chattels, and effects whatsoever, and all securities for money or obligatory instruments, and evidences or muniments of title and all other effects, and all rights and claims, whether belonging to the said committee at the date of the passing of this Ordinance or acquired by the Victoria Home after the passing of this Ordinance, shall be vested in the Victoria Home. Property to be vested in corporation.

5. The Victoria Home shall have perpetual succession, and shall at all times To have perpetual succession.

Provided that, from the 1st day of October, 1928, the Government Agent, Western Province*, shall be a member of the said committee for all purposes whatsoever in place of the Colonial Secretary, and the said committee shall, from the said date, be deemed to be incorporated as hereinbefore provided with the Government Agent, Western Province*, as a member thereof in place of the Colonial Secretary;

* To be construed as a reference to the Government Agent of the administrative district of Colombo as from 14th April, 1955.—Section 7 (8) of the Administrative Districts Act.

hereafter be able and capable in law to purchase, acquire, hold, and enjoy in perpetuity, or for any lesser term, any property movable or immovable of what nature or kind soever, and to invest the funds of the Victoria Home in securities of the Government of Sri Lanka, or in any mortgage of movable or immovable property in Sri Lanka, and also in the purchase or acquisition of such goods, chattels, and things as may be proper or requisite for the purposes of the Victoria Home.

May erect buildings.

6. The Victoria Home may erect or cause to be erected any buildings on any lands so purchased or acquired or held or enjoyed by them, and may also from time to time sell, grant, convey, demise, assign, exchange, and dispose of or mortgage any property for the time being vested in the Home.

Transfer of mortgages and securities.

7. (1) All mortgages and other securities for money, lands, and tenements held in Sri Lanka and elsewhere in the name of any person as treasurer of the Victoria Home for Incurables shall be transferred to and vested in the Victoria Home, which may assign, transfer, and dispose of all mortgages and other securities to which the Victoria Home shall be entitled as may appear proper.

(2) Where any action or proceeding is pending at any time in any court in Ceylon when this Ordinance comes into force, in which any person as secretary or treasurer of the Victoria Home for Incurables is a plaintiff, petitioner, defendant, or respondent, such action may be continued by or against the Victoria Home.

Constitution of Victoria Home.

8. (1) The Victoria Home shall consist of sixteen members, of whom four members, namely, the persons for the time being lawfully discharging the duties of the Deputy Secretary to the Treasury, the Government Agent of the administrative district of Colombo, the Director of Health Services, and the Mayor of Colombo, shall

be ex officio members, four members (hereinafter referred to as "nominated members") shall be from time to time nominated by the President and the remaining eight members (hereinafter referred to as "elected members") shall be elected by the members of the Victoria Home.

(2) For the purposes of appointing successors to the said Henry Lorenz Wendt, Colin Alexander Murray, Keith William Bruce Macleod, and Lewis Walker, and of appointing persons to act in their places in the event of their, or any of them, being temporarily disabled from discharging their duties as members of the Victoria Home, the four persons aforesaid shall be deemed to be nominated members of the Victoria Home.

9. The President may from time to time nominate persons to fill vacancies whether occasioned by death, resignation, or otherwise in the number of nominated members, and may appoint persons to act in the place of nominated members temporarily disabled from discharging their duty by sickness, absence from Colombo, or any other cause and may revoke any nomination or appointment so made, and may make such new nomination or appointment in lieu thereof as to the President may seem fit.

Vacancies in number of nominated members.

10. The members of the Victoria Home may from time to time, in accordance with any rule made under this Ordinance, elect persons to fill vacancies occasioned as aforesaid in the number of the elected members, and may also elect persons to act in the place of elected members temporarily disabled as aforesaid.

Vacancies in number of elected members.

11. The members of the Victoria Home may appoint from among their number a secretary and a treasurer, or may appoint one of their number to hold both such offices, and may revoke any appointment so made.

Appointment of secretary and treasurer.

Power to make rules.

12. It shall be lawful for the Victoria Home at any meeting convened for that purpose to make, and from time to time to revoke, vary, or amend such rules as to them or the major part of the members present shall seem necessary for any of the following purposes:—

- (a) *for* convening the ordinary or any special meetings of the corporation and fixing the number of ordinary meetings to be held each year, and the dates on which such meetings shall be held, and the means and manner of holding such meetings, and the number of members which shall constitute a quorum;
- (b) for prescribing the manner in which the seal of the corporation shall be affixed;
- (c) for regulating the election of a secretary and treasurer, and prescribing the period during which

the secretary and treasurer shall hold office, and the respective duties of such officers ;

- (d) for regulating the conduct and management of the Victoria Home ;
- (e) for the keeping and auditing of proper accounts and for prescribing the times when the same shall be submitted to the members of the Victoria Home;
- (f) for the appointment of the matron and staff of the Victoria Home and fixing the salaries to be paid to the matron and staff respectively ;
- (g) for prescribing the manner in which the election of the elected members of the Victoria Home shall be conducted; and
- (h) generally for carrying out the objects for which the Victoria Home for Incurables was originally constituted.

CHAPTER 139

VALIDATION OF REGISTRARS' PROCEEDINGS

Ordinance AN ORDINANCE TO PROVIDE FOR THE VALIDATION OF PROCEEDINGS BY OR BEFORE
 No. 3 of 1912. REGISTRARS INVALIDATED BY IRREGULARITIES.

[29th April. 1912.]

Short title. **1.** This Ordinance may be cited as the Registrars' Proceedings Validation Ordinance.

that may be necessary for the purpose of giving validity to the registration or proceeding.

Interpretation. **2.** In this Ordinance " registrar " means any person discharging or purporting to discharge the function of registering in any public record any matter which is by law authorized or required to be registered.

4. Any registration or proceeding so validated shall have effect as if it was validly made or taken at its original date. Effect of validation.

Power of Minister to validate certain invalid registrations and proceedings. **3.** Where, whether before or after the passing of this Ordinance—

5. Where the matter in question is the registration of a document, the provisions of this Ordinance shall be subject to the following savings:— Savings as to the registration of documents.

- (a) any registration of a birth, death, marriage, document, or any other matter which is by law required or authorized to be registered ; or
- (b) any proceeding taken or purporting to be taken by or before a registrar by virtue of his office,

(a) no right, title, or interest that may have been acquired by a person not a party to the document between the date of its original registration and the date of its validation shall be prejudicially affected by such validation;

(b) nothing in this Ordinance shall be deemed to authorize the validation of a registration made after the interval prescribed by law for the making of such registration where the validity of the registration depends upon its being made within the prescribed interval.

is invalidated by reason of any informality, mistake, or accidental omission, whether relating to the appointment of the registrar, or the limits of his jurisdiction, or the manner in which the registration or proceeding was made or taken, or any other incidental circumstance, and no other means are by law provided by which the registration or proceeding may be validated, it shall be lawful for the Minister by Order notified in the Gazette, to give directions for the correction of the mistake, informality, or omission, and to make any other order

6. Where the proceeding in question is a marriage, nothing in this Ordinance shall be deemed to authorize the validation of a marriage otherwise invalid where any party to the marriage has subsequently contracted a valid marriage. Saving as to marriages.

CHAPTER 491

VIDYALANKARA SABHA

Ordinance AN ORDINANCE TO INCORPORATE THE VIDYALANKARA SABHA, KELANIYA.
No. 15 of 1943.

[8th June. 1943.]

Preamble. Whereas a society called and known as the Vidyalankara Dayaka Sabha has heretofore been established at Peliyagoda, Kelaniya, for the purpose of maintaining and managing the educational institution called and known as the Vidyalankara Pirivena and other institutions connected therewith and founded, held or presided over by the late Venerable Sri Dharmarama Nayaka Thera:

And whereas the said society has heretofore successfully carried out and transacted the several objects and matters for which it was established, and has applied to be incorporated, and it will be for the public advantage to grant the application :

Be it, therefore, enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

Short title. 1. This Ordinance may be cited as the Vidyalankara Sabha Ordinance.

Incorporation of the Vidyalankara Sabha. 2. (1) With effect from the date on which this Ordinance comes into operation the president, vice-presidents, other office-bearers, and members of the committee for the time being, and such and so many persons as now are members of the said Vidyalankara Dayaka Sabha, or shall hereafter be admitted members of the corporation hereby constituted, shall be and are hereby constituted a body politic and corporate with the name of " Vidyalankara Sabha".

(2) The Vidyalankara Sabha (hereinafter referred to as the " sabha ") shall, in the said name and for the purposes herein mentioned, have perpetual succession, and shall and may by the said name sue and be sued, plead and be impleaded, answer and

be answered, in all courts, and shall and may have and use a common seal with power to break, alter, and renew the same at its discretion.

3. The general objects for which the sabha is constituted are hereby declared to be-

(a) the management and upkeep of the Vidyalankara Pirivena, Peliyagoda, Kelaniya, and other institutions connected therewith and founded, held or presided over by the late Venerable Sri Dharmarama Nayaka Thera;

(b) the management and upkeep of Sri Dharmaloka Vidyalaya, Peliyagoda, Sri Dharmarama Pathasalava, Mahaveva, and any other schools, colleges or institutions which may hereafter be established;

(c) the foundation, management and upkeep of centres for scientific and religious research;

(d) the propagation of the Buddha *dhmma* and the promotion of Buddhist culture; and

(e) the printing and publishing of books, journals, newspapers and pamphlets.

4. The sabha shall have a council consisting of a president, five vice-presidents, an honorary treasurer, an honorary general secretary, and sixty-seven other members, to be elected respectively in accordance with the rules for the time being of the sabha. The first council of the sabha

Council of the sabha.

shall consist of Sir D. B. Jayatilaka, President; D. S. Senanayake, Esq., N. D. S. Silva, Esq., J.P., A. D. Jayasundara, Esq., G. O. Pohath-Kehelpannala, Esq., and A. Alpenis de Silva, Esq., Vice-Presidents; D. A. Jayatilaka, Esq., Mudaliyar, Honorary Treasurer; J. D. de Lanerolle, Esq., Honorary General Secretary; and the following members:—D. R. Wijewardene, Esq., H. Sri Nissanka, Esq., J. R. Jayewardene, Esq., D. Wanigasekera, Esq., Dr. N. Attygalle, Dr. B. E. Fernando, Dr. P. B. Fernando, D. D. Karunaratne, Esq., J.P., P. D. Ratnatunga, Esq., Mudaliyar, D. G. K. Jayakody, Esq., Mudaliyar, Dr. R. B. Lenora, Dr. O. H. de A. Wijesekera, D. C. Wijewardene, Esq., D. F. J. Perera, Esq., A. B. Colin de Zoysa, Esq., Somaweera Gunasekera, Esq., N. D. Wijesekera, Esq., N. Moonesinghe, Esq., H. M. G. Herath-Gunaratna, Esq., Muhandiram, Wimaladharma Hewavitame, Esq., Don Elaris Bentara-Aratchi, Esq., Muhandiram, M. Piyadasa, Esq., N. Porolis Fernando, Esq., I. Romanis Fernando, Esq., R. A. Fernando, Esq., T. D. John, Esq., M. Jayasena, Esq., M. W. F. Abeykoon, Esq., E. R. Eratne, Esq., L. Jayasundara, Esq., D. E. Jayakody, Esq., R. J. Rupasinghe, Esq., P. B. Illangasinghe, Esq., L. J. E. Cabraal, Esq., U. D. P. Dharmaratne, Esq., J. D. A. Perera, Esq., D. B. Dhanapala, Esq., B. A. Kuruppu, Esq., D. T. Devendra, Esq., A. H. T. C. Silva, Esq., D. S. Jayasinghe, Esq., P. B. Dissanayaka, Esq., Arlin Perera, Esq., U. B. Wanninayaka, Esq., D. P. Jayasekara, Esq., B. H. de Alwis, Esq., V. C. Perera, Esq., A. A. Samarakoon, Esq., S. M. D. W. Jayatilleke, Esq., D. C. Jayatilaka, Esq., T. D. Wijeratna, Esq., G. E. F. Ratnasekara, Esq., A. R. Peiris, Esq., A. D. Alwis, Esq., N. P. Weerasinghe, Esq., H. M. Peiris, Esq., M. C. Perera, Esq., T. Don Paul Tillekeratne, Esq., R. L. Pedrick Silva, Esq., M. J. P. Samarasinghe, Esq., A. H. Perera, Esq., Peter de Alwis Pandita-Jayatilleke, Esq., Veda-Aratchi, U. D. Carolis Gunasekera, Esq., A. P. Perera, Esq., H. P. Perera, Esq., D. Y. Rajapaksa, Esq., and W. E. R. Gunasekara, Esq.

sabha shall be managed by a board of management consisting of—

- (a) the following ex officio members, namely, the president, the five vice-presidents, the honorary treasurer and the honorary general secretary of the sabha, the manager of the sabha's schools and the Director of Pirivenas; and
- (b) seven other members elected by the council annually from among its own members.

(2) The seven members referred to in subsection (1) shall be elected by the council at its first meeting for each year which shall be held within a fortnight from the date of the annual general meeting.

6. The sabha shall, at all times hereafter, be able and capable in law to acquire either by purchase, exchange, gift, devise or bequest, or in any other manner, and to hold and enjoy in perpetuity or for any lesser period, subject to any express trust or otherwise for the benefit of the sabha, any property movable or immovable of any nature and kind whatsoever, and all subscriptions, contributions, donations, amounts of loans and advances received or to be received, and to invest the funds vested in the sabha in securities of the Government of Sri Lanka, or upon any mortgage of movable or immovable property in Sri Lanka, and also in the purchase or acquisition of such lands, buildings, goods, chattels, and things as may in its opinion be proper or necessary for the purposes of the sabha.

Power of sabha to hold property and to make investments.

7. The sabha may—

- (a) erect, or cause to be erected, any building on any land held by the sabha; or
- (b) sell, mortgage, lease, exchange, or otherwise dispose of, any property held by the sabha, subject to any trust attaching to such property and to the law regulating such trusts; or
- (c) from time to time remove any institution standing on one site to any other site.

Power of sabha to deal with property.

Board of management,

5. (1) Subject to such rules as may be made under section 8, the affairs of the

Rules.

8. It shall be lawful for the sabha, at any meeting specially called for that purpose and by a two-thirds majority of the members present and voting, to make such rules not inconsistent with this Ordinance as the sabha may deem expedient for all or any of the following purposes:—

- (a) the limitation of membership and the fixing of membership fee;
- (b) the election of members;
- (c) the removal of members from the roll;
- (d) the election of office-bearers and an auditor, and the determination of their duties and term of office;
- (e) the election of the council and the board of management, and the determination of the duties and term of office of the council and the duties of the board of management;
- (f) the appointment of a manager for the Sri Dharmaloka Vidyalaya and other schools and a Director of Pirivenas, and the determination of their duties and term of office;
- (g) the appointment of an academic board for selecting the staff of the

Vidyalankara Pirivena and advising the board of management on academic questions;

- (h) the fixing of the procedure to be followed in the transaction of business of the sabha, the council of the sabha, the board of management and the academic board;
- (i) the custody of the seal of the sabha;
- (j) the general administration of the affairs of the sabha.

9. The seal of the sabha shall not be affixed to any instrument whatsoever except in the presence of the president and one other member 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. Seal of the sabha-

10. 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 rights of the Republic and others.

CHAPTER 118

VETERINARY SURGEONS AND PRACTITIONERS

Acts AN ACT TO PROVIDE FOR THE REGISTRATION OF VETERINARY SURGEONS AND
 Nos. 46 of 1956, VETERINARY PRACTITIONERS, FOR THE ESTABLISHMENT OF A VETERINARY
 19 of 1964, COUNCIL AND FOR MATTERS CONNECTED THEREWITH.
Law
 No. 11 of 1975.

[7th November, 1956.]

Short title. **1.** This Act may be cited as the *(a)* before the Council is constituted, be
 Veterinary Surgeons and Practitioners Act, made to the registering officer on or
 before such date as shall be

Qualifications for registration. **2.** (1) A person shall be qualified for registration as a veterinary surgeon if he—
(a) has attained the age of twenty-one years,
(b) is of good character, and

[§ 2, Law 11 of 1975.] *(c)* is the holder of the degree of Bachelor of Veterinary Science of the University of Ceylon* or such other qualification approved by the Council.
(b) after the Council is constituted, be made to the registrar.

4. (1) The fee for the registration of a Registration person as a veterinary surgeon or a fee. veterinary practitioner shall be ten rupees and shall be paid when the application for registration is made.

(2) Where an applicant for registration is not registered, the fee paid by him for registration shall be returned to him.

(b) is of good character, and
(c) produces satisfactory proof that he has been engaged in diagnosing diseases of animals and giving medical or surgical treatment to animals as his principal means of livelihood for a period of ten years immediately preceding the date of his application for registration as a veterinary practitioner.
5. The registration of a person as a veterinary surgeon or a veterinary practitioner shall, notwithstanding anything to the contrary stated in the registration, be valid, till the thirty-first day of December of the year in which such registration is made. Period of validity of registration. [§ 3, Law 11 of 1975.]

Applications for registration. **3.** Applications for registration as veterinary surgeons or veterinary practitioners shall—
6. (1) Where a Registered Veterinary Surgeon or a Registered Veterinary Practitioner pays the renewal fee referred to in section 7 before the expiry of the period of , validity of his registration, the registration shall be renewed. Renewal of registration.

(2) A renewed registration shall—

* This is a reference to the University of Ceylon established by the repealed University of Ceylon Act, No. 1 of 1972.

- (a) if it is the first renewal, be valid for twelve months commencing on the day immediately following the date of expiry of the period of validity of the original registration, and
- (b) if it is the second or any subsequent renewal, be valid for twelve months commencing on the day immediately following the date of expiry of the period of validity of the immediately preceding renewal.

(3) Where a person's name is expunged from the register and thereafter his name is inserted in the register by a fresh registration, such fresh registration shall not be deemed to be a renewal of the earlier registration.

Renewal fee. **7.** The fee for each renewal of registration shall be such sum not exceeding the fee specified in section 4 as shall, until it is prescribed, be determined by the Minister.

Consequence of failure to pay renewal fee. **8.** (1) Where a Registered Veterinary Surgeon or a Registered Veterinary Practitioner fails to pay the renewal fee before the expiry of the period of validity of his registration, his name shall be expunged from the register.

(2) Where the registration of a person as a veterinary surgeon or a veterinary practitioner is not renewed by reason of his failure to pay the renewal fee within the time allowed therefor by section 6 (1), the Council or, if the Council is not in existence, the Minister may, if satisfied that the failure of that person to pay the renewal fee was due to inadvertence or a cause beyond his control, order him to be registered as a veterinary surgeon or a veterinary practitioner according to his qualifications under section 2 upon payment of the fee specified in section 4.

Register. **9.** (1) There shall be a register (hereinafter referred to as the register) consisting of two parts, one for the registration of the names, addresses and qualifications of veterinary surgeons and the other for the registration of the names and addresses of veterinary practitioners.

(2) The register shall be maintained by the registering officer until a registrar is appointed.

(3) When a registrar is appointed, the register shall be maintained by him for and on behalf of the Council,

10. (1) There shall be appointed a registering officer who shall deal with the applications for registration made on or before the date appointed by the Minister under section 3. Appointment of registering officer.

(2) The registering officer shall—

(a) register in that part of the register which is for the registration of veterinary surgeons the names, addresses and qualifications of such of the persons who have made the applications referred to in subsection (1) as are qualified under section 2 to be registered as veterinary surgeons, and

(b) register in that part of the register which is for the registration of veterinary practitioners the names and addresses of such of the applicants as are qualified under section 2 to be registered as veterinary practitioners.

11. After the completion of the registrations which the registering officer is required by section 10 to make, he shall cause a copy of the registrations as appearing in the register to be published in the Gazette and a notice specifying the number and date of the Gazette in which such copy appears to be published in one Sinhala newspaper, one Tamil newspaper and one English newspaper circulating in Sri Lanka. Publication of copy of registrations made by registering officer.

12. (1) Where the name of a person who has applied for registration as a veterinary surgeon or a veterinary practitioner on or before the date appointed by the Minister under section 3 is omitted from the copy of the registrations published in the Gazette under section 11, that person may, within thirty days after the date of the Gazette in which such copy is published, appeal by petition to the Minister against the exclusion of his name from the register. Appeal to Minister against omission of name from the register.

(2) Every petition of appeal under subsection (1) shall bear a stamp of the value of five rupees.

(3) Where an appeal is made under subsection (1), the Minister shall, if satisfied that the appellant is qualified under section 2, order him to be registered as a veterinary surgeon or a veterinary practitioner according to his qualifications under that section.

Minister's power to order amendment or cancellation of a registration.

13. (1) The Minister may, of his own motion or upon application made to him by any person, order—

(a) for the purpose of rectifying an error, the amendment of any entry made in the register by the registering officer, and

(b) the cancellation of any registration made by the registering officer if that registration has been fraudulently made or effected.

(2) Before making an order under subsection (1), the Minister shall give the person who will be affected by the order an opportunity to show cause why the order should not be made.

Registering officer to carry out Minister's order under section 12 or section 13.

14. The registering officer shall carry out the orders of the Minister under section 12 or section 13.

Constitution of the Veterinary Council of Sri Lanka.

15. (1) After the publication of the copy of the registrations under section 11 and the disposal of the appeals, if any, made to the Minister under section 12, there shall be constituted a council (hereinafter referred to as the Council) which shall be called the Veterinary Council of Sri Lanka and which shall consist of the following members ;—

[§ 2,19 of 1964.]

(a) the Director, Animal Production and Health,

[§ 4, law 11 of 1975.]

(b) five Registered Veterinary Surgeons elected by the Registered Veterinary Surgeons;

[§ 4, Law II of 1975.3

(c) two members of the academic staff of the University of Sri Lanka,* who shall be Registered Veterinary Surgeons—

(i) one of whom shall be the person who has overall responsibility for education in veterinary science in the University of Ceylon+ and who shall be elected by the Board of Governors of the University of Ceylon+; and

(ii) the other who shall be elected by the teachers of veterinary science who are Registered Veterinary Surgeons from among themselves.

(d) two Members of Parliament nominated by the Minister.

(2) The first elections under paragraphs (b) and (c) of subsection (1) shall be conducted in accordance with such directions as may be given by the Minister, and subsequent elections under those paragraphs shall be conducted in accordance with such regulations as may be made in that behalf under this Act.

16. (1) The members of the Council shall elect one of them who is a Registered Veterinary Surgeon to be the president of the Council.

President of the Council.

(2) The president shall, unless he vacates office earlier, hold the office of president for one year;

Provided that where the president vacates office before the expiry of his term of office, his successor shall, unless such successor vacates office earlier, hold the office of president for the unexpired part of such term.

(3) A person who vacates the office of president by effluxion of time shall be eligible for re-election as the president.

17. (1) Any elected or nominated member of the Council shall, unless he vacates office earlier, hold office for four years from the date of his election or nomination, or until such date as his successor is elected or nominated.

Term of office of members of the Council.

* This is a reference to the University of Sri Lanka which ceased to exist under the Universities Act, No. 16 of 1978.

+ This is a reference to the University of Ceylon established by the repealed University of Ceylon Act, No. 1 of 1972.

(2) Any elected or nominated member of the Council who vacates office by effluxion of time shall be eligible for re-election or renomination as a member.

(3) A member of the Council shall vacate office—

(a) if he/being a member elected by the Senate of the University of Sri Lanka,* ceases to be a member of that Senate, or

(b) if he, being a Member of Parliament nominated to the Council by the Minister, ceases to be a Member of Parliament, or

(c) if he, being a member other than the president or the Director, Animal Production and Health resigns office in writing addressed to the president, or

(d) if he, being the president, resigns office by writing addressed to the Minister, or

(e) if he, being a member other than the Director, Animal Production and Health absents himself, without leave of absence granted by the Council, from three consecutive meetings of the Council.

(4) In the event of the death of, or vacation of office by, any elected or nominated member of the Council, another person shall, in accordance with the provisions of section 15 (1), be elected or nominated, as the case may be, in place of such member, and shall hold office during the remaining part of the term of office of such member.

18. (1) The Council shall meet at such time and place as may be fixed by regulations made under this Act, and every meeting of the Council shall be summoned in the manner provided therefor by regulations made under this Act:

Provided, however, that until such regulations are made—

* This is a reference to the University of Sri Lanka established by the repealed University of Ceylon Act, No. 1 of 1972.

+ Later designated Secretary to the Ministry.

(a) the first meeting of the Council shall be summoned by the Permanent Secretary to the Ministry! by letter addressed to each member, and

(b) every subsequent meeting shall be summoned by the president by letter addressed to each member.

(2) The president shall preside at every meeting of the Council, and, in his absence at any meeting, a member of the Council who is a Registered Veterinary Surgeon shall be chosen by the members present at the meeting to be the chairman of the meeting.

(3) No business shall be transacted at any meeting of the Council unless at least six members of the Council are present. [§ 5, Law 11 of 1975.]

(4) Every question arising at any meeting of the Council shall be decided by a majority of votes of the members present, and, in the case of an equality of votes, the president, or in his absence the chairman, shall have a casting vote.

(5) No act or proceeding of the Council shall be deemed to be invalid merely by reason of any vacancy in the Council or any defect in the election or nomination of any member thereof or the absence of any member thereof on account of leave or otherwise.

19. The Council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in the name assigned to it by section 15(1) and shall be capable of acquiring, holding and alienating property whether movable or immovable.

The Council to be a body corporate.

20. (1) The Council shall appoint a registrar and may appoint such other officers and servants as the Council may deem necessary, and shall have power to exercise disciplinary control over and dismiss any officer or servant of the Council.

Appointment of officers and servants

(2) The registrar shall also be the secretary and, until another person is appointed treasurer, the treasurer of the Council.

[§11, Law 11 of 1975.]

[§2, 19 of 1964.]

[§ 2, 19 of 1964.]

Meetings of the Council.

(3) The officers and servants of the Council shall be paid out of the funds of the Council such remuneration as may be determined by the Council with the approval of the Minister.

Funds of the Council.

21. Such part of the fees paid for the registrations and the renewals of registrations made by the registering officer as the Minister with the concurrence of the Minister in charge of the subject of Finance shall determine, and all fees paid for the registrations and the renewals of registrations made by the registrar shall be credited to the funds of the Council, and there shall be paid out of such funds the remuneration of the staff of the Council, all expenses incurred by the Council in the exercise of its powers and the discharge of its duties under this Act, and expenses incurred for any prescribed purpose.

Transfer of the register to the Council.

22. After the Council is constituted, the register shall be transferred to the Council, and it shall be the responsibility of the Council to maintain the register.

Registrar to be subject to directions of the Council in maintaining the register.

23. In accordance with the directions of the Council, the registrar shall make or amend any entry in, or expunge any entry from, the register.

Power of the Council to order amendment or cancellation of a registration.

24. (I) The Council may, of its own motion or upon application made to it by any person, order—

(a) for the purpose of rectifying an error, the amendment of any entry in the register, and

(b) the cancellation of any registration which has been fraudulently made or effected.

(2) Before making an order under subsection (1), the Council shall give the person who will be affected by the order an opportunity to show cause why the order should not be made.

Power of the Council to order a name in the register to be expunged.

25. The Council may order the name of any veterinary surgeon or veterinary practitioner to be expunged from the register if he—

(a) is convicted in any court of law of an offence involving moral turpitude, or

(b) being subject to military law, is convicted of an offence under the Army Act, or

(c) after an inquiry by the Council, is found guilty of infamous conduct.

26. Where the name of a veterinary surgeon or a veterinary practitioner has been expunged from the register, the Council may, of its own motion or upon the application of that veterinary surgeon or veterinary practitioner, order him to be registered again as a veterinary surgeon or a veterinary practitioner.

Restoration of expunged name to the register.

27. (1) The registrar shall in each year, on or before such date as may be determined by the Council, cause to be published in the Gazette a list in alphabetical order of the names of all persons who are on that date registered in the register, together with their addresses and qualifications and the dates on which such qualifications were obtained—

Publication of annual list of Registered Veterinary Surgeons and Registered Veterinary Practitioners.

(2) A list published under subsection (1) shall be admissible in evidence in all proceedings whether civil or criminal, and shall be evidence, until the contrary is proved, that the persons whose names appear in such list are registered as indicated therein and that any person whose name does not appear in such list is not registered as a veterinary surgeon or a veterinary practitioner:

Provided, however, that in the case of any person whose name does not appear in such list, a certificate by the registrar that such person is registered as a veterinary surgeon or a veterinary practitioner shall be admissible in evidence and shall be evidence that such person is so registered.

28. (1) Whenever any Registered Veterinary Surgeon or Registered Veterinary Practitioner changes his residence, he shall notify his new address to the registering officer or the registrar who shall enter such address in the register.

Change of residence by Registered Veterinary Surgeon or Registered Veterinary Practitioner.

(2) The registering officer or the registrar may, by letter sent by registered post to any Registered Veterinary Surgeon or Registered Veterinary Practitioner at his address as specified in the register, inquire whether or not he has changed his residence, and if within three months after sending such letter a reply thereto is not received by the registering officer or the registrar, the name of that veterinary surgeon or veterinary practitioner may be expunged from the register.

(3) A name expunged from the register under subsection (2) shall be restored to the register if the Council so directs.

- (a) the rendering to any animal in an emergency of first aid for the purpose of saving life or relieving pain;
- (b) the destruction of any animal by painless methods;
- (c) the castration of any animal or the caponizing of any bird ;
- (d) the spaying of a pig not over the age of three months;
- (e) the docking of the tail of a dog before its eyes are open;
- (f) the amputation of the dew-claws of a dog before its eyes are open;
- (g) the inoculation of any animal or bird.

Insertion of additional qualifications- [§ 6, Law 11 of 1975.]

29. A Registered Veterinary Surgeon who obtains any qualification in addition to his qualifications specified in the register shall, upon payment to the registering officer or the registrar of such fee as may be determined by the Minister until it is prescribed, be entitled to have such qualification added to his qualifications in the register, where such additional qualification is approved by the Council.

Certificates by veterinary surgeons and veterinary practitioners.

30. No certificate required by any written law to be signed by a veterinary surgeon shall be valid unless the person signing such certificate is a Registered Veterinary Surgeon or Registered Veterinary Practitioner.

Right to recover fees or charges for services as a veterinary surgeon or veterinary practitioner.

31. No person other than a Registered Veterinary Surgeon or Registered Veterinary Practitioner shall be entitled to recover in any court of law any fee or charge for any veterinary service or for any advice or attendance as a veterinary surgeon or veterinary practitioner.

Restriction of practice of veterinary surgery by unqualified persons-

32. (1) Except as provided in subsection (2), no person shall practise or hold himself out as practising or as being prepared to practise veterinary surgery unless he is a Registered Veterinary Surgeon or a Registered Veterinary Practitioner.

(2) The provisions of subsection (1) shall not apply to any person who performs any of the following acts :—

33. No person shall use or assume the title or designation of veterinary surgeon or veterinary practitioner or any name, title, addition or description calculated to lead to the belief that he is a veterinary surgeon or veterinary practitioner unless he is a Registered Veterinary Surgeon or a Registered Veterinary Practitioner.

Assumption of title of veterinary surgeon or veterinary practitioner,

34. No person shall add to his name any title, description or abbreviation which implies that he is the holder of a degree, diploma, licence or certificate which entitles him to practise any veterinary science unless he is the holder of the degree of Bachelor of Veterinary Science of the University of Ceylon* or other qualification approved by the Council.

Degrees, diplomas, &c., of veterinary surgeons. [§ 7, Law 11 of 1975.]

35. The registering officer or the registrar shall by letter sent by registered post notify a veterinary surgeon or veterinary practitioner of his registration, the renewal of his registration, any amendment of his registration, the cancellation of his registration, the expunction of his name from the register, or the restoration of his name to the register after its expunction.

Notification of registration, &c.

* This is a reference to the University of Ceylon established by the repealed University of Ceylon Act, No. 1 of 1972.

Construction of "veterinary surgeon" and "veterinary practitioner" in written law.

36. In any written law, whether enacted before or after the commencement of this Act, the expressions "veterinary surgeon" and "veterinary practitioner" shall be construed respectively as Registered Veterinary Surgeon and Registered Veterinary Practitioner.

shall come into operation on a date specified in that behalf in the regulation or, if no date is specified, upon such publication, and shall, as soon as practicable after its publication in the Gazette, be brought before 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,

Offences and penalties.

37. Any person who contravenes any provision of this Act shall be guilty of an offence and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two hundred and fifty rupees and on a second or subsequent conviction to a fine not exceeding five hundred rupees.

(4) The validity of anything done under a regulation shall not be affected by a subsequent rescission of the regulation under subsection (3).

Protection of officers for action taken under this Act.

38. No suit, prosecution or legal proceeding shall be instituted against any person in the employment of the Council for any act which in good faith is done, or purported to be done, under this Act or any regulation made thereunder.

(5) Notification of the date on which the rescission of a regulation under subsection (3) takes effect shall be published in the Gazette.

Decisions of Council to prevail in matters not expressly provided for. [§ 8, Law 11 of 1975.]

39. The decision of the Council on any matter not expressly provided for in this Act shall prevail.

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

" Director, Animal Production and Health" means the person appointed to be or to act as the Director of Agriculture (Animal Production and Health); [§ 9, Law 11 of 1975.]

" prescribed" means prescribed by regulation made under this Act;

Regulations.

40. (1) The Minister may, upon the recommendation of the Council, make regulations for the purpose of giving effect to the provisions of this Act.

"president" means the president of the Council;

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), regulations may be made in respect of all or any of the following matters:—

" registering officer" means the registering officer appointed under this Act;

(a) the fee for the renewal of a registration under this Act;

" registrar " means the registrar appointed by the Council;

(b) all matters stated or required by this Act to be prescribed ;

" Registered Veterinary Surgeon " means a person registered as a veterinary, surgeon under this Act;

(c) all matters for which regulations are authorized by this Act to be made.

" Registered Veterinary Practitioner" means a person registered as a veterinary practitioner under this Act; and

(3) Every regulation made under this section shall be published in the Gazette and

the Council " means the Veterinary Council of Sri Lanka constituted under this Act. [§ 11, Law 11 of 1975.]

CHAPTER 424

VIDYANIKETA SANRAKSHAKA SABHA

Act No. 17 of 1959. AN ACT TO INCORPORATE THE VIDYANIKETA SANRAKSHAKA SABHA.

[15th May, 1959.]

- Short title. **1.** This Act may be cited as the Vidyaniketa Sanrakshaka Sabha (Incorporation) Act. by a Board of Management which shall consist of—
- Incorporation of the Vidyaniketa Sanrakshaka Sabha. **2.** The members for the time being of the Vidyaniketa Sanrakshaka Sabha shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession, a common seal and the name "The Vidyaniketa Sanrakshaka Sabha". The Corporation may sue and be sued by that name.
- Objects of the Corporation. **3.** The general objects of the Corporation shall be—
- (a) the management and maintenance of the Vidyaniketa Pirivena situated at Kamburupitiya (hereinafter referred to as "the Pirivena ") and the other institutions connected therewith and founded, held or presided over, by the Venerable Narandeniye Ratanapala Thero;
- (b) the management and maintenance of any other schools or institutions which may hereafter be established ;
- (c) the establishment, management and maintenance of centres for scientific and religious research;
- (d) the propagation and protection of Buddhism and Buddhist culture; and
- (e) the printing and publishing of books, journals, newspapers and pamphlets.
- The Board of Management of the Corporation. **4.** (1) The affairs of the Corporation shall, subject to the rules for the time being in force of the Corporation, be administered
- (a) ten Life-Members, and
- (b) seven Ordinary Members elected annually in accordance with the rules for the time being in force of the Corporation.
- (2) The following shall be the first Life-Members of the Board of Management:—
- (i) Senator the Honourable C. Wijesinghe, O.B.E., Minister of Nationalized Services and Road Transport.
- (ii) Mrs. S. L. Wijesinghe, M.B.E., Kamburupitiya.
- (iii) L. D. Sedara, Esq., Muhandiram, Kamburupitiya.
- (iv) A. H. A. Don Arnolis Ralahamy, Kamburupitiya.
- (v) G. W. D. Mallis Ralahamy, Kamburupitiya.
- (vi) Mrs. A. R. K. Nissanka, Kamburupitiya.
- (vii) Torrington Wickramaratna, Esq., Kamburupitiya.
- (viii) A. W. Rajapaksa, Esq., Kamburupitiya.
- (ix) Venerable N. Ratanapala Thero, Kamburupitiya.
- (x) Rev. Pandit G. Sugathapala Thero, Kamburupitiya.
- (3) Whenever a vacancy occurs among the Life-Members of the Board of Management, the Board of Management shall elect a person to fill the vacancy.
- (4) The following shall be the first Ordinary Members of the Board of Management, and they shall, unless they cease to hold office earlier, hold office as such Members from the date of commencement of this Act until the election

of the Ordinary Members of the Board of Management for the next succeeding year and shall be eligible for re-election as Ordinary Members of the Board of Management:—

- (i) K. Somaratne, Esq., Kamburupitiya.
- (ii) D. A. Abeygunawardhana Ralahamy, Kamburupitiya.
- (iii) J. Wellappili, Esq., Kamburupitiya.
- (iv) B. Weeratunga, Esq., Kamburupitiya.
- (v) D. H. P. Pandipperuma, Esq., Kamburupitiya.
- (vi) W. Ratnayaka, Esq., Kamburupitiya.
- (vii) M. D. Jayasooriya, Esq., Kamburupitiya.

Office-bearers of the Corporation.

5. (1) The board of Management shall elect from its own members the following office-bearers of the Corporation:—

- (a) The President.
- (b) Two Vice-Presidents.
- (c) An Honorary Treasurer.
- (d) Two Honorary Joint Secretaries.

(2) The office-bearers of the Corporation shall, unless they cease to hold office earlier, hold office from the date of their election until the election of the office-bearers for the next succeeding year.

Advisory Board and Councils.

6. (1) The Board of Management shall appoint suitable bhikkhus as members of the Advisory Board of the Corporation.

(2) The Board of Management shall appoint Councils to promote the fulfilment of the objects of the Corporation.

The Principal of the Pirivena.

7. (1) The Venerable Narandeniye Ratanapala Thero shall be the Principal of the Pirivena. On the post of such Principal becoming vacant by the death or resignation of the Venerable Narandeniye Ratanapala Thero, a suitable and qualified bhikkhu who is in the line of pupillary succession to the Venerable Narandeniye Ratanapala Thero, shall be appointed to that post by the Board of Management. In the absence of such a bhikkhu, an elderly bhikkhu in the line of such pupillary succession shall be appointed Director of the Pirivena. The Director of the Pirivena shall appoint, with the approval of the Board of Management, a

qualified and competent bhikkhu to the post of Principal and shall be generally responsible for the proper administration of the Pirivena.

(2) The bhikkhu in the line of such pupillary succession as is referred to in subsection (1) shall have the right to reside in the Pirivena and shall be subject to the disciplinary rules of the Pirivena. If he behaves in a manner prejudicial to the interests of the Pirivena, his conduct shall be examined by a body consisting of not less than five members of the Board of Management and if he is found guilty of having behaved in such manner, he shall be ejected from the Pirivena.

8. (1) The annual general meeting of the members of the Corporation shall be held in the month of January, and the reports of the Principal of the Pirivena and of the Honorary Treasurer shall be submitted for consideration at such meeting. Meetings.

(2) The Honorary Secretary shall convene a special general meeting of the members of the Corporation at the request of the President or upon the written requisition of not less than seven members of the Corporation, and not less than three days' notice of such meeting shall be given to the members of the Corporation.

(3) At least ten days' notice of any general meeting shall be given to the members of the Corporation.

(4) Five members of the Corporation shall constitute the quorum for any meeting of the members of the Corporation.

(5) The Board of Management shall meet at least once in three months.

(6) At least ten days' notice of any meeting of the Board of Management shall be given to the members of the Board and five such members shall constitute the quorum for such meeting.

9. The Corporation may acquire and hold any movable or immovable property by right of purchase, exchange, grant, gift, testamentary disposition or otherwise, and may sell, mortgage, lease, exchange or otherwise dispose of any of its movable or immovable property. The Corporation may hold property.

Funds of the Corporation, **10.** The Corporation may invest its funds in any securities in which trustees are required by the Trusts Ordinance to invest trust money.

Rules. **11.** It shall be lawful for the Corporation, at any meeting of the members of the Corporation specially called for that purpose and by a vote of two-thirds of such members present and voting at such meeting, to make such rules not inconsistent with this Act as the Corporation may deem expedient for all or any of the following purposes:—

- (a) The limitation of membership and the fixing of the membership fee.
- (b) The election of members.
- (c) The removal of members from the roll of members.
- (d) The election of office-bearers and auditors and the determination of their duties.
- (e) The election of Ordinary Members of the Board of Management and the determination of the duties of the Members of the Board of Management.

(f) The appointment of a Principal or Director of the Pirivena and determination of the duties and the term of office of such Principal or Director.

(g) The procedure to be followed in the transaction of business of the Corporation.

(h) The custody of the seal of the Corporation.

(i) The general administration of the affairs of the Corporation.

12. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the President and one other member of the Board of Management, 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.

13. 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 under them.

Saving of the rights of the Republic and others.

VOLUNTARY SOCIAL SERVICE ORGANIZATIONS

(REGISTRATION AND SUPERVISION)

[Cap. 370]

CHAPTER 370

VOLUNTARY SOCIAL SERVICE ORGANIZATIONS (REGISTRATION AND SUPERVISION)

Act
No. 31 of 1980.

AN ACT TO PROVIDE FOR THE REGISTRATION WITH THE GOVERNMENT OF VOLUNTARY SOCIAL SERVICE ORGANIZATIONS, TO PROVIDE FOR THEIR INSPECTION AND SUPERVISION; TO FACILITATE THE CO-ORDINATION OF THE ACTIVITIES OF SUCH ORGANIZATIONS; TO GIVE GOVERNMENTAL RECOGNITION TO SUCH ORGANIZATIONS WHICH ARE PROPERLY CONSTITUTED; TO ENFORCE THE ACCOUNTABILITY OF SUCH ORGANIZATIONS IN RESPECT OF FINANCIAL AND POLICY MANAGEMENT UNDER THE EXISTING RULES OF SUCH ORGANIZATIONS, TO THE MEMBERS OF SUCH ORGANIZATIONS. THE GENERAL PUBLIC AND THE GOVERNMENT; TO PREVENT MALPRACTICES BY PERSONS PURPORTING TO BE SUCH ORGANIZATIONS; TO REGULARISE THE CONSTITUTION OF VOLUNTARY SOCIAL SERVICE GROUPS WHICH HAVE NOT BEEN LEGALLY RECOGNIZED; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Not in operation on 31st December, 1980.]

Short title and
date of
operation.

1. This Act may be cited as the Voluntary Social Service Organizations (Registration and Supervision) Act, and shall come into operation on such date* (hereinafter referred to as the "appointed date") as the Minister may by Order published in the Gazette appoint.

within the area of his jurisdiction, exercise, perform or discharge all or any of the powers, duties or functions vested in, assigned to, or imposed upon the Registrar by or under this Act.

Appointment
of officers.

2. (1) There may be appointed for the purposes of this Act by name or by office, a Registrar of Voluntary Social Service Organizations (hereinafter referred to as the "Registrar").

3. Subject to the provisions hereinafter contained every voluntary social service organization (hereinafter referred to as a "voluntary organization") shall be registered under this Act.

Organizations
that require to
be registered.

(2) There may be appointed by name or by office such number of Deputy Registrars and Assistant Registrars of Voluntary Social Service Organizations, and other officers as may be necessary for the purposes of this Act.

4. Every application for registration under this Act, shall be made to the Registrar in the prescribed form and shall be accompanied by such documents as may be -prescribed. Such application shall be signed by the Secretary of the voluntary organization.

Application for
registration.

(3) Every Deputy Registrar or Assistant Registrar shall, in the exercise of his powers, performance of his duties and discharge of his functions, be subject to the general direction and control of the Registrar.

5. If the Registrar is satisfied that a voluntary organization has complied with the provisions of this Act he shall register such organization.

Registration.

(4) Every Deputy Registrar or Assistant Registrar may, subject to the general direction and control of the Registrar,

6. Any person aggrieved by the decision of the Registrar refusing to register any voluntary organization may, within thirty

Appeal from
refusal to
register.

* Not in operation on 31st December, 1980. In operation from 1st February, 1982 See Gazette No. 179 of 5.02.1982.

VOLUNTARY SOCIAL SERVICE ORGANIZATIONS
(REGISTRATION AND SUPERVISION)

Cap. 370]

days of such refusal, appeal to the Secretary to the Ministry charged with the subject of Social Services against such refusal.

Evidence of registration.

7. A certificate of registration signed by the Registrar shall be conclusive evidence of the fact that the voluntary organization therein mentioned, is duly registered unless it is proved that the registration of such organization has been cancelled.

Address of organization.

8. Every voluntary organization registered under this Act shall have an address registered with the Registrar in accordance with the rules of such organization, to which all notices and communications may be sent, and shall within seven days of any change of such address notify to the Registrar of such change.

Powers of Registrar.

9. The Registrar or any officer authorized by him in writing in that behalf shall have the power—

- (a) to enter and inspect at all reasonable hours of the day, the premises of a voluntary organization registered under this Act for the purpose of ascertaining whether satisfactory standards of service are maintained in such organization;
- (b) to bring to the notice of the Minister any allegation of fraud or misappropriation of funds committed by such organization ;
- (c) to attend any meeting of the executive committee of such organization or a general meeting of the members of such organization, upon the written request of all or a majority of the members of the executive committee of such organization, or with the concurrence of the office bearers of such organization or the Minister. The Registrar or the officer so attending shall not have the right to vote at such meeting.

Minister to refer certain matters to Board of Inquiry.

10. Where, in respect of a voluntary organization registered under this Act, any allegation of fraud, or misappropriation is made by any person, the Minister may refer such matter to a Board of Inquiry.

11. (1) The Minister may appoint a Board of Inquiry. Panel consisting of six persons of standing who are not public officers.

(2) The Minister may, for the purposes of this Act, constitute a Board of Inquiry or Boards of Inquiry, each consisting of three members chosen from the Panel. The Minister may nominate one member to be the Chairman of a Board of Inquiry.

(3) The members of a Board of Inquiry shall be paid such remuneration as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

12. (1) Where a matter is referred to a Board of Inquiry under section 10, such Board shall inquire and report on such matter to the Minister. Board of Inquiry to inquire and report.

(2) The procedure for the hearing and disposal of any matter referred to such Board shall be in accordance with the regulations made in that behalf.

(3) Such Board shall submit the report on its findings to the Minister within fourteen days after the conclusion of the inquiry.

13. For the purpose of an inquiry under section 12, a Board of Inquiry shall have the power— Powers of Board of Inquiry.

(a) to summon and compel the attendance of witnesses;

(b) to compel the production, of documents;

(c) to administer any oath or affirmation to any person.

14. Upon the receipt of the report of the Board of Inquiry in terms of section 12 (3), the Minister shall refer such report to the appropriate authority for steps to be taken according to law. Minister to refer report to appropriate authority.

15. (1) The Minister may make Regulations. regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

**VOLUNTARY SOCIAL SERVICE ORGANIZATIONS
(REGISTRATION AND SUPERVISION)** **[Cap. 370]**

(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 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.

Penalty for non-compliance with this Act.

16. (1) Every person who wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorized by him in that behalf, and every person who wilfully or without any reasonable excuse disobeys any summons, or lawful written order issued under the provisions of this Act, or fails to furnish any information lawfully required from him by a person authorized to do so, under the provisions of this Act, shall be guilty of an offence under this Act.

(2) Every person who commits any offence referred to in subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred and fifty rupees.

Protection of officers.

17. No suit or proceedings shall be instituted against any officer appointed

under this Act for any act which is done in good faith in the performance of his duties or the discharge of his functions under this Act.

18. In this Act, unless the context otherwise requires—

"community hostel" means any place of residence made available to any person by an organization formed by a group of persons on a voluntary basis, which provides food and other facilities for the person residing therein; and

"Voluntary Social Service Organization" means any organization formed by a group of persons on a voluntary basis and—

- (a) is of a non-Governmental nature;
- (b) is dependent on public contributions, charities, grants payable by the Government or donations local or foreign, in carrying out its functions;
- (c) has as its main objectives, the provision of such reliefs and services as are necessary for the mentally retarded or physically disabled, the poor, the sick, the orphans and the destitutes, and the provision of relief to the needy in times of disaster,

and includes a community hostel.

CHAPTER 75

WILLS

Ordinances AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO TESTAMENTARY DISPOSITIONS OF
 Nos. 21 of 1884, PROPERTY.
 11 of 1852,
 15 of 1876.
 1 of 1911.

[23rd December, 1844.]

Short title. 1. This Ordinance may be cited as the Wills Ordinance.

Parties may dispose of their property by will as they choose.

2. It shall be lawful for every person competent to make a will to devise, bequeath, and dispose of by will all the property within Sri Lanka which at the time of his death shall belong to him, or to which he shall be then entitled, of whatsoever nature or description the same may be, movable or immovable, and all and every estate, right, share, or interest in any property, and which if not so devised, bequeathed, or disposed of would devolve upon his heirs-at-law, executor, or administrator, to such person or persons not legally incapacitated from taking the same, as he shall see fit; and no will made either within or beyond the limits of Sri Lanka subsequently to the time when this Ordinance shall commence and take effect shall be or be liable to be set aside as invalid or inofficious, either wholly or in part, by reason that any person who by any law, usage, or custom now or at any time heretofore in force within Sri Lanka, would be entitled to a share or portion of the property of the testator, has been excluded from such share or portion, or wholly disinherited by or omitted in such will; but every testator shall have full power to make such testamentary disposition as he shall feel disposed, and in the exercise of such right to exclude from the legitimate or other portion any child, parent, relative, or descendant, or to disinherit or omit to mention any such person, without assigning any reason for such exclusion, disinheritance, or omission, any law, usage, or custom now or heretofore in force in Sri Lanka to the contrary notwithstanding:

Provided that nothing herein contained shall extend or be construed to extend to authorize or entitle any testator to dispose by will of any property or estate of his wife, or to exclude or deprive her of any life or other interest (belonging to her in her own right) in any property, and to which property, estate, or interest she would have been entitled if this Ordinance had not been passed.

3. No will made by any male under the age of twenty-one years, or by any female under the age of eighteen years, shall be valid, unless such person shall have obtained letters of *venia aetatis* or unless such person shall have been lawfully married.

At what age wills may be made

4. The President for the time being shall have and enjoy within and over each and every district of Sri Lanka all rights and powers in respect of granting letters of *venia aetatis*.

President may grant letters of *venia aetatis*.

5. Every will made beyond the limits of Sri Lanka containing any devise or disposition of immovable property situate within Sri Lanka, which shall have been duly made and executed according to and in conformity with the forms and solemnities prescribed by the law of the country where the same shall have been so made and executed, by any person who by the law of such country or of Sri Lanka is competent to make a will, shall be valid and effectual to alienate and pass the property in any immovable property so devised or disposed of by any such testator ;,and every will duly

As to the validity of foreign wills.

made and executed in manner aforesaid, in any place beyond the limits of Sri Lanka, by any person who shall be competent to make a will by the law of the place where he shall be domiciled at the time of making and executing the same, shall be valid and effectual to alienate and pass the property in any movable property by such will bequeathed or disposed of, anything contained in the Prevention of Frauds Ordinance or any other law or custom to the contrary notwithstanding.

As to the re-execution of wills.

6. Every will re-executed or republished, or revived by any codicil, shall for the purpose of this Ordinance be deemed to have been made at the time at which the same shall be so re-executed or republished or revived.

No survivorship as to property undivided held in shares, unless expressly stipulated for.

7. And for the avoiding of all doubts and questions as to the respective rights of persons jointly holding landed property situated within certain districts of Sri Lanka, it is further enacted and declared that all landed property situated in Sri Lanka which shall belong to two or more persons jointly, whether the same shall have come to them by grant, purchase, descent, or otherwise, is and shall be deemed and taken to be held by them in common, and upon the decease of any of such persons the said property so jointly possessed shall not remain or belong to the survivor, but all the right, share, and interest of the person so dying in and to the property so jointly possessed as aforesaid shall form part of his estate; and the person or persons to whom the same shall by him be devised or bequeathed, or to whom it shall devolve, shall thereupon become and be co-proprietors with the survivor in the said property, in the proportion and according to the share of such deceased person therein, unless the instrument under which the said property is jointly held and possessed, or any agreement mutually entered into between them, shall expressly provide that the survivor, upon such decease, shall become entitled to the whole estate.

8.* In all cases of marriages contracted either within any part of Sri Lanka or abroad¹ without a nuptial contract or settlement, the respective rights and powers of the parties during the subsistence of the marriage in and about the management, control, disposition, or alienation of any immovable property situated in any part of Sri Lanka, which belonged to either party at the time of the marriage or has been acquired during the coverture, and also their respective rights in or to such property, or any portion thereof, or estate or interest therein, either during the subsistence of the marriage or upon the dissolution thereof, shall in all cases be determined according to the law of the matrimonial domicile; and if the parties shall have entered into a nuptial contract or settlement by which their or either of their rights, powers, or interests in, to, or over any such property as aforesaid are ascertained and determined, or by which either party shall be declared entitled to a defined portion of or interest in the common estates, or to any provision by way of dowry or maintenance, or otherwise, out of the separate estate of the other of such parties during the subsistence of the marriage or at the dissolution thereof, then and in any such case neither of the parties shall be entitled, upon the dissolution of the marriage, to any other or greater portion, interest, or provision in or out of any such property as aforesaid, than in and by such nuptial contract or settlement such party shall be declared entitled to, whether or not it shall be expressly stated therein that such portion, interest, or provision was in lieu of the right or interest which such party would otherwise have had in such property as aforesaid if such nuptial contract or settlement had not been made.

Effect of previous settlement.

9. Whenever in this Ordinance the word Interpretation. "will" is used it shall be construed to extend to a testament and to a codicil, and to any other testamentary disposition;

and whenever the words "landed property" are used they shall be construed to extend to houses and buildings erected on the same, and to any estate, right, or interest (other than a chattel interest) therein;

* This section is repeated so far as it is inconsistent with the provisions of the Matrimonial Rights and Inheritance Ordinance and the Jaffna Matrimonial Rights and Inheritance Ordinance,

WILLS

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and whenever the word "representative" and on behalf of another, as his guardian,
is used it shall be construed to mean the tutor, curator, or attorney, as the case may
party legally entitled to appear and act for be.

CHAPTER 244

WHALING

Ordinance No. 2 of 1936. AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO WHALING OPERATIONS IN THE COASTAL WATERS OF SRI LANKA.

[4th July. 1936.]

Short title. **1.** This Ordinance may be cited as the Whaling Ordinance.

Application of Ordinance. **2.** (1) The provisions of this Ordinance shall apply only in relation to whales known as—

(a) whalebone whales or baleen whales;

(b) sperm whales.

(2) The Minister may, by Order published in the Gazette, declare that the provisions of this Ordinance shall apply to whales other than those mentioned in subsection (1) or to any other marine mammals of the order *Cetacea*, subject to such exceptions, adaptations and modifications as may be specified in the Order; and upon the publication of any such Order the provisions of this Ordinance shall apply to such other whales or mammals or to such descriptions thereof as may be so specified.

Protection for certain species of whales. **3.** (1) No person shall, within the coastal waters of Sri Lanka kill or take or attempt to kill or take—

(a) a right whale, or

(b) an immature whale, or

(c) a female whale which is accompanied by a calf.

(2) If any person kills or takes or attempts to kill or take any whale specified in subsection (1), that person and the master of the vessel used for the purpose of such killing or taking or of such attempt to kill or take, 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 months, or to a fine not exceeding two thousand rupees, and an additional fine not exceeding the value of the products, if any, obtained or obtainable from the whale in question, or to both such imprisonment and such fines.

(3) For the purposes of this section, a whale of any description shall be deemed to be immature if it is of less than such length as may be prescribed in relation to whales of that description;

Provided that the length prescribed for the purposes of this section shall not—

(a) in relation to blue whales, be less than sixty feet; or

(b) in relation to fin whales, be less than fifty feet.

4. (1) Without prejudice to the provisions of section 3, no person shall use any vessel for the purpose of taking or treating whales within the coastal waters of Sri Lanka or use any factory situate within Sri Lanka for the purpose of treating whales, unless the master of the vessel or the occupier of the factory is the holder of a licence in force under this Ordinance authorizing the vessel or the factory, as the case may be, to be so used. Vessels and factories to be licensed

(2) If any vessel or factory is used for taking or treating whales in contravention of this section, the master of the vessel or

the manager and the occupier of the factory, as the case may be, shall each be guilty of an offence and shall each be liable, in respect of each whale taken or treated in contravention of this section, to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding two thousand rupees and an additional fine not exceeding the value of the products, if any, obtained or obtainable from the whale, or to both such imprisonment and such fines.

5. (1) Every application for a licence under this Ordinance shall be in such form, contain such particulars, and be accompanied by such fee, as may be prescribed, and shall be addressed to the Marine Biologist.

(2) On receipt of an application for a licence, the Marine Biologist shall have power to call for such further information as he may require and to inspect or test or cause to be inspected or tested any vessel, factory, plant or equipment specified or referred to in the application, and it shall be his duty to forward the application to the Minister together with his recommendation or comments thereon.

(3) No licence shall be issued unless it is authorized by the Minister.

(4) A licence may be refused on any one or more of the following grounds :—

- (a) that the vessel or the factory, or the plant or equipment provided in the vessel or the factory specified or referred to in the application is inadequate or is unsuitable in any respect;
- (b) that the applicant does not possess or command sufficient capital to ensure the proper conduct of the operations for which the licence is required;
- (c) that the applicant has been convicted previously of an offence under this Ordinance;
- (d) that it is not in the public interest to issue any licence.

(5) In any case where a licence is or is liable to be refused on any ground set out in paragraph (a) of subsection (4), it shall be lawful for the Marine Biologist to return the application to the applicant with a statement of such further requirements as are considered necessary to enable such application to be entertained.

Any application renewed after compliance with such requirements may be entertained without the payment of another fee.

(6) Where an application is allowed and a licence is authorized by the Minister, the Marine Biologist shall issue to the applicant a licence under his hand in such form as may be prescribed containing the conditions required or authorized to be inserted therein by section 6.

(7) Where an application is refused by the Minister, the fee paid by the applicant shall be refunded to him subject to the deduction of such expenditure as may have been incurred in the inspection of the vessel or factory or in the inspection or testing of the plant or equipment of the vessel or factory.

(8) Every licence issued under this Ordinance shall, unless previously cancelled, continue in force for one year from the date specified in the licence as the day on which it takes effect.

6. (1) There shall be attached to every licence under this Ordinance authorizing the use of a vessel for taking whales a condition that the remuneration of the gunners and crew of the vessel must, so far as it is calculated by reference to the results of their work, be calculated by reference to the size, species, oil-yield and value of the whales taken, and in such manner as to exclude remuneration in respect of any whale which is of less than such length as may be prescribed for the purposes of this section, or the taking of which is prohibited by this Ordinance.

Conditions attached to licences.

(2) There shall be attached to every licence under this Ordinance authorizing the

Whaling licences.

use of a vessel or factory for treating whales, the following conditions :—

- (a) that there must be recorded in the prescribed manner and by the prescribed person—
 - (i) with respect to each whale treated in the vessel or factory, the date and place of taking, the species and the sex of the whale, and such measurements and other biological information (including information as to the contents of its internal organs) as may be prescribed; and
 - (ii) the prescribed particulars as to the number of whales treated in the vessel or factory, and as to the yield of oil of different grades, and the quantities of meal, guano and other products derived, from those whales; and
 - (b) that the vessel or factory must be equipped with plant of a type approved by the Marine Biologist for the extraction of oil from the blubber, flesh and bones of whales, and that steps must be taken to ensure that the plant is kept in good order and operated efficiently; and
 - (c) that, except in the case of a whale or part of a whale intended to be used for human food, the oil must be extracted, by boiling or otherwise, from all whale blubber, from the heads and tongues of whales and from their tails as far forward as the outer opening of the lower intestine; and
 - (d) in the case of a factory, that adequate arrangements must be made for utilizing residual products.
- (3) There shall be attached to every licence under this Ordinance the condition that the records required by the licence to be kept must be transmitted, at such times and in such manner as may be prescribed, to the Marine Biologist.

(4) There may be attached to any licence under this Ordinance such conditions, if any, in addition to the conditions required by the foregoing provisions of this section, as appear to the Marine Biologist to be necessary or expedient for the purpose of preventing, so far as practicable—

- (a) any wastage of whales or whale products; or
- (b) the taking of whales during certain seasons; and any conditions attached to such licence as aforesaid for the purpose of preventing the taking of whales during certain seasons, may specify different seasons in relation to different parts of the coastal waters of Sri Lanka or different descriptions of whales-

(5) Notwithstanding anything in the foregoing provisions of this section, no condition involving the substitution of one type of plant for another shall be attached to a licence under this section unless at least twelve months' notice of the intention to impose the condition has been given by the Marine Biologist in such manner as he thinks best for informing persons concerned.

(6) If any condition attached to a licence under this Ordinance is contravened or not complied with, then, in the case of a licence granted in respect of a vessel, the master of the vessel, or, in the case of a licence granted in respect of a factory, the manager and the occupier of that factory, shall each be guilty of an offence, and shall each be liable on conviction after summary trial before a Magistrate to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding two thousand rupees or to both such imprisonment and such fine; and the Magistrate by whom the offender is convicted may, if he thinks fit, cancel any licence granted under this Ordinance to the offender, being a licence which is for the time being in force in respect of the vessel or factory, as the case may be, and that licence shall thereupon cease to be in force.

(7) Without prejudice to the provisions of subsection (6), if any person fails to keep any record in accordance with the conditions attached to a licence under this Ordinance or knowingly makes in any record which he is required by such conditions to keep, a statement false in any material particular, he 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 months or to a fine not exceeding five hundred rupees, or to both such imprisonment and such fine.

Permits to take and treat whales for scientific purposes.

7. (1) Notwithstanding anything in this Ordinance contained, the Marine Biologist may, with the approval of the Minister, grant to any person a special permit authorizing that person to kill, take or treat whales within the coastal waters of Sri Lanka for purposes of scientific research or for other exceptional purposes, subject to such restrictions as to number, and subject to such other conditions, as may be specified in that permit; and the killing, taking or treating of whales in accordance with a permit in force under this section shall be exempt from the operation of the foregoing provisions of this Ordinance.

(2) The Marine Biologist may at any time, with the approval of the Minister, revoke a permit granted by him under this section.

Whale fishery inspector.

8. (1) There may be appointed for the purposes of this Ordinance any person by name or by office to be or to act as a whale fishery inspector.

(2) For the purpose of enforcing the provisions of this Ordinance, a whale fishery inspector, on producing on demand evidence of the fact that he is such an inspector—

(a) may board or enter any vessel or factory which he has reason to believe is used for taking or for treating whales, and inspect the vessel or factory and its plant and equipment; and

(b) may, in the case of any such vessel, require the master and crew, or any of them, or in the case of any such

factory, require the occupier or manager thereof and the employees therein or any of them, to produce all such licences, records and other documents as the inspector considers it necessary to inspect, and to answer all such inquiries as he considers it necessary to make; and

(c) may take copies of, or extracts from, any documents produced to him.

(3) Every person who refuses to produce to a whale fishery inspector any document which he is required under this section to produce, or refuses to answer, or answers falsely, any inquiry duly made of him by such an inspector, or otherwise obstructs, or refuses facilities to, such an inspector in the discharge of his functions under this section, shall be guilty of an offence and shall on summary conviction before a Magistrate be liable to a fine not exceeding one thousand rupees.

(4) A whale fishery inspector appointed under this Ordinance shall be a public servant within the meaning of the Penal Code.

9. (1) Notwithstanding anything in this Ordinance contained, the owner or lessee of any land, or his agent, may take possession of any derelict whale found on such land or on the coast or shore adjacent thereto, but no such whale or part thereof shall be appropriated by him except on such special terms and conditions in respect of royalty and otherwise as may be prescribed.

Derelict whales.

(2) Any person who appropriates any derelict whale or part thereof in contravention of subsection (1) shall be guilty of an offence and shall on summary conviction before a Magistrate be liable to a fine not exceeding five hundred rupees. Any whale or part of a whale or whale oil found in the possession of any such person may be confiscated by order of the Magistrate and, if confiscated, shall be disposed of in such manner as may be prescribed.

10. (1) The Minister may make all such Regulations as may be necessary for the purpose of carrying out or giving effect to

Regulations.

the principles and provisions of this Ordinance:

Provided that no regulations shall be made prescribing the amount to be paid by way of royalty on derelict whales without the concurrence of the Minister in charge of the subject of Finance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations prescribing—

- (a) the form of applications for licences, the fees to be paid on any such application and the mode of payment of such fees;
- (b) the form of licences issued under this Ordinance;
- (c) the terms and conditions on which derelict whales may be appropriated, and the amount to be paid by way of royalty thereon ;
- (d) the lengths of whales for the purposes of any of the provisions of this Ordinance, and the manner in which the lengths are to be measured or determined;
- (e) all matters required or authorized to be prescribed under this Ordinance ; and
- (f) all matters incidental to or connected with the matters specifically referred to in this section.

(3) No regulation shall have effect unless it has been approved by Parliament.

Notification of such approval shall be published in the Gazette.

(4) Every regulation shall, upon the publication in the Gazette of the notification required by subsection (3), be as valid and effectual as though it were herein enacted.

Interpretation. **11.** In this Ordinance, unless the context otherwise requires—

" blue whale " means a whale known by any of the following names, namely,

blue whale, Sibbald's rorqual, sulphur bottom;

" calf " includes a suckling whale;

* " coastal waters " means the part of the sea within a distance of three nautical miles from any point on the coast of Sri Lanka measured from low-water mark of ordinary spring tides;

" factory " does not include a vessel;

" fin whale " means a whale known by any of the following names, namely, common finback, common tinner, common rorqual, finback, fin whale, herring whale, razorback, true fin whale;

" licence " means a licence issued under this Ordinance;

" master", in relation to any vessel, includes the person for the time being in command or charge of the vessel and in relation to a vessel used for treating whales, includes the person for the time being in charge of the operations on board the vessel which are connected with or incidental to such treatment;

" prescribed" means prescribed by regulations made under this Ordinance;

" right whale " means a whale known by any of the following names, namely, Atlantic right whale, Arctic right whale, Biscayan right whale, Bowhead, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale. North Cape whale, Pacific right whale, Pigmy right whale, Southern pigmy right whale. Southern right whale;

" vessel" means a ship or boat of any description not propelled by oars and includes any floating platform, barge or raft used for the purpose of treating whales.

* See also section 11 of the Maritime Zones Law.

CHAPTER 188

WEIGHTS AND MEASURES

Ordinance No. 37 of 1946, Act No. 7 of 1971, Law No. 24 of 1974, Act No. 16 of 1979.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO WEIGHTS AND MEASURES.

[ist March. 1955.]

Short title. 1. This Ordinance may be cited as the Weights and Measures Ordinance.

PART I

APPOINTMENTS, ADMINISTRATION, &c.

Appointment of Warden of the Standards, Deputy Warden of the Standards, Examiner of Standards and superintendent of weights and measures. [§2.7 of 1971.] (§2.16 of 1979.)

2. (1) There may, for the purposes of this Ordinance, be appointed—

- (a) a person, by name or by office, to be or to act as Warden of the Standards;
(b) a person, by name or by office, to be or to act as Deputy Warden of the Standards;
(c) such number of persons, by name or by office, to be or to act as Examiners of the Standards as may be necessary;
(d) a person by name or by office to be or to act as superintendent or assistant superintendent of weights and measures for any specified district or area;

(2) The Deputy Warden of the Standards appointed under subsection (1) may, subject to the general direction and control of the Warden of the Standards, exercise, perform or discharge all or any of the powers, duties or functions, conferred or imposed on or assigned to the Warden by or under this Ordinance.

Local authorities. [§3, 7 of 1971.]

3. The Minister may by Order published in the Gazette—

- (a) declare that any Municipal Council, Urban Council, Town Council or Village Council, or where such

Council has been dissolved, the Special Commissioner or Special Commissioners appointed under section 277 of the Municipal Councils Ordinance or section 184 of the Urban Councils Ordinance or section 183 of the Town Councils Ordinance or the public officer appointed under section 54 or section 54A of the Village Councils Ordinance shall be the local authority for the purposes of the administration of this Ordinance in the area within the administrative limits of such Council, in relation to all weights, measures and weighing and measuring instruments or in relation to such weights or measures or weighing or measuring instruments as may be specified in such Order; or

- (b) where any Council, Special Commissioner or public officer so declared to be a local authority has failed or is unable to exercise or perform the powers or duties conferred or imposed on a local authority by this Ordinance, declare that such Council, Special Commissioner or public officer shall cease to be a local authority for the purposes of this Ordinance.

4. (1) The Warden shall appoint such number of inspectors of weights and measures and other officers and servants as may be necessary for the administration of this Ordinance in all areas other than areas within the administrative limits of local authorities, and shall assign to every such inspector an area (hereinafter referred to as a "division ") in which he shall exercise the

Appointment of inspection

powers and discharge the duties conferred or imposed on an inspector by or under this Ordinance.

(2) Every local authority shall appoint not less than one inspector of weights and measures for the area within the administrative limits of that authority, and may appoint such other inspectors, officers and servants as may be necessary for the administration of this Ordinance in that area.

(3) No person shall be appointed under this section to be an inspector unless he holds a certificate in the prescribed form under the hand of the Warden to the effect that he is competent to be an inspector; no such certificate shall be issued to any person unless he has been examined by, and passed the prescribed tests to the satisfaction of the Warden.

[§4.7 of 1971.] (3A) A certificate issued under subsection (3) or a copy thereof purporting to be signed and certified as a true copy by the Warden shall, without further proof, be admissible in evidence in any legal proceeding and shall in such proceeding be sufficient prima facie evidence of the fact stated therein.

(4) A superintendent shall have and may exercise within the district or area for which he is appointed, all the powers conferred on an inspector by or under this Ordinance.

[§4.7 of 1971.] (5) In any legal proceeding any inspector or superintendent who has exercised or discharged in any place any power or duty conferred or imposed on him by or under this Ordinance shall, until the contrary is proved, be deemed to have been duly authorized under this Ordinance to exercise or discharge such power or duty in that place.

PART II

AUTHORIZED UNITS OF MEASUREMENT

5. The International System of Units as defined in Parts I and II of the First Schedule hereto shall be the base units of measurement for Sri Lanka:

Provided, however, that the yard and the pound as specified in Part III of the First Schedule hereto and defined in relation to

the metre and the kilogramme may be lawfully used concurrently with such International System of Units.

6. The definitions of the units of measurement specified in the Second Schedule hereto shall be the definitions of the units of measurement for all measurements made in Sri Lanka.

7. The weights and measures specified in the Third Schedule hereto are hereby authorized for use in trade.

***13.** All the weights and measures specified in the Third Schedule hereto are hereby declared to be, and are referred to in this Ordinance as, authorized weights and authorized measures, respectively; and every denomination of weight and measure specified in such Third Schedule hereto is hereby declared to be, and is referred to in this Ordinance as, an authorized denomination of weight or measure.

PART III

STANDARDS OF THE UNITS OF MEASUREMENT

14. (1) For the purposes of this Ordinance, the Minister may from time to time procure such standards of the units of measurement as he may consider necessary.

(2) Every standard of any unit of measurement procured under subsection (1) shall be the equivalent of a unit of measurement defined in the First or Second Schedule hereto or any multiple or sub-multiple of any such unit of measurement, and shall be made of such materials and in such manner as to be, as far as practicable, proof against mechanical and atmospheric agencies and other sources of error.

(3) A description of every standard of any unit of measurement procured under subsection (1) shall be published in the Gazette on a direction by the Warden.

(4) Every standard of any unit of measurement procured under subsection (1) shall be verified and authenticated at a specified standards laboratory before such standard is brought into use in Sri Lanka.

Definitions of units of measurement. [§3, Law 24 of 1974.]

Weights and measures authorized for use in trade. [§3, Law 24 of 1974.]

Weights and measures in Third Schedule declared to be authorized weights and authorized measures. [§5, Law 24 of 1974.]

Sri Lanka standards. [§7, Law 24 of 1974.]

The International System of Units shall be the base units of measurement. [§3, Law 24 of 1974.]

* Sections 8 to 12 are repealed by Law No. 24 of 1974.

(5) The Minister may by notification in the Gazette declare that a standard of any unit of measurement, which has been procured and verified under this section, shall be brought in, to use in Sri Lanka and such standard shall upon such notification become a Sri Lanka standard and shall for all purposes whatsoever be conclusively presumed to be true and accurate.

Custody and verification of Sri Lanka standards

15. (1) Every Sri Lanka standard shall be kept and preserved in such manner as may be prescribed at the office and in the custody of the Warden.

[§8, Law 24 of 1974.]

(2) The Minister shall, once at least in each period of fifteen years, cause such Sri Lanka standards as he deems necessary, equivalent to the units of measurement defined in the First Schedule, to be verified at a specified standards laboratory :

Provided, however, that before any Sri Lanka standard of any unit of measurement is sent out of Sri Lanka for such purpose, the Minister may cause a secondary standard of that unit of measurement to be verified by comparison with such Sri Lanka standard and to be authenticated in such manner as the Minister may direct and to be placed in the custody of the Warden, and such secondary standard shall, during such time as the Sri Lanka standard is out of Sri Lanka, be deemed to be a Sri Lanka standard.

[§8, Law 24 of 1974.]

(3) Any Sri Lanka standard other than a standard verified under subsection (2) shall be verified by the Warden once in every ten years after its first verification by comparison with a Sri Lanka standard specified in section 14.

Secondary standards.

16. (1) The Minister may, for the purposes of this Ordinance, cause such copies as he may consider necessary of any Sri Lanka standards to be made in such manner and of such material, weight, length, form and specifications, as may be prescribed.

[§9, Law 24 of 1974.]

* (4) Every secondary standard of any unit of measurement shall be kept and preserved in such manner as may be

prescribed at the office and in the custody of the Warden, who shall, once at least in each period of five years, cause such standard to be compared with the Sri Lanka standard of that unit of measurement and, if necessary, to be corrected or adjusted.

(5) The Minister may at any time by Notification published in the Gazette cancel any secondary standard and any standard so cancelled shall thereupon cease to be, and to be used as, a secondary standard.

17. (1) The Warden or any local authority may from time to time for the purposes of this Ordinance procure such copies as may be necessary of the secondary standards of any unit of measurement; every such copy shall be made in such manner and of such materials, form and specifications as may be prescribed.

Working Standards. [§10, Law 24 of 1974.]

(2) The Warden shall cause every such copy of a secondary standard to be verified, and if found to be correct, to be authenticated, in the prescribed manner; every copy so authenticated shall be a working standard for the purposes of this Ordinance, and shall be deemed, until the contrary is proved, to be true and accurate.

18. (1) The Warden shall provide, for use by inspectors appointed by him, such number of working standards as he may consider necessary; and such standards shall be kept at every kachcheri in Sri Lanka and at such other places as the Warden may direct, in the custody of the Government Agent of the district, or, in the case of a place other than a kachcheri, in the custody of the superintendent of the district or area in which that place is situated.

Revision of working standards for the use of inspectors.

(2) Every local authority shall provide, for use by inspectors appointed by that authority, such working standards as the Warden may from time to time direct; and such standards shall be kept at the office and in the custody of the authority and at such other places in the area of that authority as the Warden may direct.

* Subsections (2) and (3) are repealed by Law No. 24 of 1974.

Periodical verification of working standards.

19. (1) Every local authority and every Government Agent having the custody of any working standard, shall once at least in every period of two years send that standard to the Warden for the purpose of examination.

to any one of the units of measurement specified in the Second Schedule, or any one of the authorized weights and measures specified in the Third Schedule, or any multiple or sub-multiple or a combination of any multiple and sub-multiple of any such authorized weight or measure specified in such Third Schedule.

[§10.7 of 1971.]

(2) An Examiner shall examine every working standard of weight or measure which is sent to the Warden under subsection (1) and shall compare it with the secondary standard of that weight or measure, and if such working standard is, after such correction or adjustment as may be necessary, found to be true and accurate, shall in such manner as may be prescribed, stamp it as correct.

(2) All fees and duties whatsoever charged or collected in Sri Lanka according to any unit of measurement shall be charged and collected according to one of the units of measurement specified in the Second Schedule or any one of the authorized weights and measures specified in the Third Schedule.

Provision of weighing and measuring instruments for use by inspectors.

20. (1) The Warden shall provide, for use by inspectors appointed by him, such weighing and measuring instruments as he may consider necessary; and such instruments shall be kept at every kachcheri in Sri Lanka and at every other place at which working standards are, under section 18(1), required to be kept,

(3) The packing in Sri Lanka of any article in a container for the purposes of sale shall be done according to any one of the authorized units of measurement.

(2) Every local authority shall keep and maintain such weighing and measuring instruments as the Warden may direct at the office of the authority and at every other place in the area of that authority at which working standards are, under section 18 (2), required to be kept.

(4) Every contract, bargain, sale or dealing which is not made or had in accordance with the provisions of subsection (1) shall be void:

(3) Every weighing or measuring instrument which is provided and kept under this section, shall be verified by the superintendent at such times and in such manner as may be prescribed.

Provided, however, that notwithstanding anything in this section, a court may, in any case where any person has derived or received any advantage from or under any such contract, bargain, sale or dealing, make such order as the court may deem expedient for the purpose of compensating the person from whom or on account of whose act such advantage was derived or received.

Judicial notice of standards.

21. Every court shall take judicial notice of every Sri Lanka standard and of every secondary or working standard, o

23. Save as is otherwise provided in section 54, no weight or measure other than a weight or measure specified in the Third Schedule shall be used for the purpose of any trade.

Only weights and measures specified in the Third Schedule to be used for trade. [§13, Law 24 of 1974.]

PART IV

USE OF UNITS OF MEASUREMENT

All contracts, sales, Ac. and collection of fees or duties to be in terms of authorized units of measurement. [§12. Law 24 of 1974.]

22. (I) Save as is otherwise provided in section 54, every contract, bargain, sale or dealing made or had in Sri Lanka whereby any work, goods, wares, merchandise or other thing is or are to be done, sold, delivered, carried, measured, computed, paid for, or agreed for by weight or measure, shall be made and had according

24. Subject as hereinafter provided, every article which is sold by weight shall be sold either by any metric or avoirdupois weight, and every computation of the weight of any article for the purpose of trade shall be made either by any metric or avoirdupois weight:

Use of authorized weights For sale of articles. [§14, Law 24 of 1974.]

Provided, however, that—

- (a) drugs, when sold by retail, may be sold either by metric or apothecaries' weight;
- (b) carat metric weight may be used for the sale or for the computation of the weight—
 - (i) of gold and silver or any article made thereof including gold or silver thread, lace and fringe;
 - (ii) of platinum, diamonds, or any other precious metal or stone.

25. No person shall use for the purpose of any trade, or have in his possession for use in any trade—

- (a) any weight which purports to be of a denomination equivalent to an authorized denomination, unless the denomination is stamped on the top or side thereof in legible figures and letters; or
- (b) any measure of length or capacity which purports to be of a denomination equivalent to an authorized denomination, unless the denomination is stamped on the outside thereof in legible figures and letters;
- (c) any striker which does not comply with the requirements of section 30 (a):

Provided that nothing in this section shall be deemed to require the stamping of a denomination of any weight, if the small size of such weight renders such stamping impracticable.

26. No person shall use for the purpose of any trade, or have in his possession for use in any trade any weighing or measuring instrument which does not bear a stamp indicating the maximum weight or measure, as the case may be, which may be weighed or measured by means of such instrument.

27. Every person who in any shop, warehouse, store, market, or public place sells any article by weight or measure,

whether on his own behalf or on behalf of the owner of such article, shall on demand made by the person to whom the article is to be delivered—

- (a) if the article is sold by weight, weigh the article in a weighing instrument in the presence of that person ; or
- (b) if the article is sold by measure, measure the article in a measure of capacity in the presence of that person.

28. No person shall sell or expose for sale any weight or measure or weighing or measuring instrument which has not been verified and stamped by an inspector with the prescribed mark of verification.

29. (1) Where the Minister is satisfied that sufficient facilities are provided under this Ordinance for the verification and stamping by inspectors of all weights and measures and weighing and measuring instruments which are in use in any place or area in Sri Lanka, the Minister may by Order published in the Gazette prohibit the use, for the purpose of any trade in that place or area, of any weight or measure or weighing or measuring instrument which has not been stamped by an inspector with the prescribed mark of verification; every such Order shall be in force in such place or area on and after such date as may be specified therein, not being earlier than three months after the date on which the Order is published in the Gazette.

(2) Where in any proceeding in any court it has to be determined whether an Order under subsection (1) was in force on any day in any place, a certificate under the hand of the divisional Assistant Government Agent having jurisdiction over that place to the effect that such Order was in force on that day in that place shall be received in that proceeding as conclusive evidence of the facts stated therein and such divisional Assistant Government Agent shall not be examined or cross-examined in such proceeding with respect to that certificate.

30. Where any authorized measure of capacity is used for the purpose of any

Prohibition of sale of weight, &c., not stamped by inspectors.

Prohibition of use of weights, measures, or instruments not stamped by inspectors.

[§12,7 of 1971.1

Use of measures of capacity.

Use of weight or measure the denomination of which is not stamped thereon.

Use of weighing or measuring instrument the capacity of which is not stamped thereon.

Seller to weigh or measure article if required.

trade, such measure shall not be heaped but shall—

- (a) be stricken with a round striker which must be straight and of the same diameter from end to end ; or
- (b) where the article measured cannot conveniently be stricken by reason of Its shape or size, be filled in all parts as nearly to the level of the brim as the shape and size of the article will permit.

31. (1) No person shall sell, manufacture or repair any authorized weight or measure or any weighing or measuring instrument except under the authority of a licence issued by the Warden under this section.

(2) No licence to sell, manufacture or repair weights, measures, and weighing and measuring instruments shall be issued to any person except upon payment of the prescribed fee.

(3) Every licence issued by the Warden under this section shall be in the prescribed form, shall be subject to such conditions as may be prescribed, and shall be in force until such date as may be specified in the licence.

(4) Regulations may be made prohibiting persons licensed under this section from demanding or accepting, in respect of the repair or adjustment of weights, measures, and weighing and measuring instruments, fees in excess of such maximum fees as may be prescribed by such regulations.

(5) The Warden may revoke any licence issued under this section if the holder of the licence is convicted of an offence under this Ordinance.

PART V

INSPECTION, STAMPING AND VERIFICATION OF WEIGHTS AND MEASURES

32. (1) The superintendent for each district or area shall fix the times and the places within such district or area at which each inspector appointed by the Warden shall examine and verify weights and measures and weighing and measuring instruments.

(2) The Chairman of every local authority shall fix the times and the places within the area of that authority at which each inspector appointed by that authority shall examine and verify weights and measures and strikers and weighing and measuring instruments.

(3) Public notice of the time and place fixed under subsection (1) or subsection (2) for the examination and verification of weights and measures and strikers and weighing and measuring instruments shall be given by the superintendent for the district or area or the Chairman of the local authority, as the case may be, in such manner and at such times as may be prescribed.

(4) Every inspector shall at the time and place fixed under this section for examination by him, attend with the working standards provided for his use and shall—

- (a) examine in the prescribed manner every weight or measure which is produced to him for the purpose and compare it with a working standard of that weight or measure; and
- (b) examine and test in the prescribed manner every weighing or measuring instrument and any striker which is produced to him for the purpose.

(5) Nothing in subsection (1) or subsection (2) shall be deemed to prevent an inspector from examining, comparing or testing any weight or measure or striker or weighing or measuring instrument which is produced to him for examination at any time or place other than a time or place fixed under this section.

(6) No inspector shall examine any weight or measure or weighing or measuring instrument under this section, except upon payment of the prescribed fee for such examination.

33. (1) An inspector who, upon examination under section 32, finds any weight or measure or weighing or measuring

Stamping of mark of verification.

Prohibition of sale, manufacture or repair of weights, measures, &c. except under licence. [§13.7 of 1971.]

[§13.7 of 1971.]

Periodical examination of weights, measures and instruments.

instrument to be just, and otherwise in all respects to comply with the provisions of this Ordinance and of the regulations made thereunder, shall stamp such weight, measure or instrument in the prescribed manner with the prescribed mark of verification.

(2) No inspector shall stamp with a mark of verification any weight or measure or weighing or measuring instrument which is not just or which does not comply with any provisions of this Ordinance or any regulation which is applicable in the case of such weight, measure or instrument, as the case may be.

(3) No inspector shall stamp any weight or measure with a mark of verification—

- (a) unless such weight or measure is of an authorized denomination, or
- (b) unless he has tested it by comparison with a working standard of that weight or measure.

34. Every weight or measure or weighing or measuring instrument which has been duly stamped by an inspector under this Ordinance with the prescribed mark of verification shall unless it is found thereafter to be false "or unjust, be a legal weight, measure or instrument, as the case may be, in any part of Sri Lanka.

35. Any inspector may at any reasonable time enter any factory, shop, store, godown, shed, land, premises or vehicle which is in his division or in the area of the local authority by which he was appointed, as the case may be, and in which any weight or measure or striker or weighing or measuring instrument is or is suspected to be kept or used for the purpose of any trade or any article is kept, offered or exposed for sale. and may—

- (a) search for, or require the person for the time being in charge thereof to produce for inspection, all or any of the weights and measures and strikers and weighing and measuring instruments kept therein;

(b) inspect any weight or measure which is found therein or produced for examination, and compare it with a working standard of that weight or measure;

(c) inspect and test any weighing or measuring instrument or any striker which is found therein or produced for examination;

(d) seize and detain for the purpose of a prosecution for an offence under this Ordinance or any other written law, any weight or measure or striker or weighing or measuring instrument which is found upon such comparison or test to be unjust, or which appears to the inspector to have been or to be likely to be used in contravention of any provision of this Ordinance or such other written law, as the case may be; and

(e) inspect and weigh, or inspect and measure, any article which is therein kept, offered or exposed for sale in order to ascertain whether the provisions of this Ordinance are being complied with in respect of such article and seize and detain any article in respect of which or in relation to which a contravention of any provision of this Ordinance has been or is suspected to have been committed.

35A. Any police officer not below the rank of Sub-Inspector may enter any premises used for the purposes of any trade in any place or area in which an Order under section 29 is in force and may—

(a) inspect any weight or measure or weighing or measuring instrument which is found in such premises; and

(b) seize and detain for the purpose of a prosecution for an offence under this Ordinance, any weight or measure or weighing or measuring instrument which is found in such premises and which has not, in the period of twelve months immediately preceding the date of

Weights, &c., stamped by inspectors to be legal weights, & in Sri Lanka.

Power of inspectors to enter premises and inspect weights, &c. [§14,7 of 1971.]

[§14,7 of 1971.]

Power of police officers to enter certain premises and to inspect weights, measures, weighing and measuring instruments. [§15,7 of 1971.]

inspection, been stamped by an inspector with the prescribed mark of verification.,

fit, authorize that inspector to act in that area as an adjuster of weights and measures and weighing and measuring instruments.

Power of price control inspectors to enter certain premises and to check any weighing or measuring of goods. [§3,16 of 1979.]

35B. Any price control inspector shall have the power to—

- (a) enter any premises used for the purposes of any trade in any place or area in Sri Lanka (including any area within the administrative limits of any local authority), and check any weighing or measuring which is being or which has been done for the purpose of delivering goods to a purchaser;
- (b) seize and detain where necessary for the purpose of any prosecution in respect of an offence under section 44B, any goods which have been so delivered in contravention of the said section 44B.

(3) No inspector who is authorized under subsection (2) to act as an adjuster of weights and measures and weighing and measuring instruments shall adjust any weight or measure or weighing or measuring instrument except upon payment of the prescribed fee for such adjustment.

38. (1) All fees paid under this Part to any inspector appointed by the Warden shall be credited to the Consolidated Fund. Disposal of fees.

(2) All fees paid under this Part to any inspector appointed by a local authority shall be credited to the funds of the authority.

39. Every inspector shall keep a register in the prescribed form in which he shall enter such particulars as may be prescribed relating to the performance of his duties under this Ordinance, and shall at such times as may be prescribed transmit the register to the Warden for examination : Registers to be kept by inspectors.

UK of unstamped standards, &c., by inspectors, [§16, 7 of 1971.]

36. (1) No inspector shall use any working standard for the purposes of testing any weight or measure at any time after the expiry of a period of two years from the date on which that standard was last stamped as correct by an Examiner under section 19.

Provided that in the case of an inspector appointed by a local authority such register shall be submitted to the Chairman of that authority for transmission to the Warden in accordance with the provisions of this section.

(2) No inspector shall use for the purposes of this Ordinance any weighing or measuring instrument which is provided for his use unless that instrument has been verified in the prescribed manner by an Examiner.

40. (1) Every person appointed to be an inspector shall forthwith on his appointment give security in such sum as may be prescribed for the due discharge of the duties of his office, for the due payment of all fees received by him under this Ordinance and for the safety of the working standards and stamps and other appliances entrusted to him for the purposes of this Ordinance. inspectors to give security.

Inspectors not to derive profit from making or selling weights, &c.

37. (1) No inspector shall derive any profit from or be employed in the making or selling of weights or measures or weighing or measuring instruments.

(2) Subject as hereinafter provided, no inspector shall repair, alter or adjust any weight or measure or weighing or measuring instrument:

(2) Where an inspector is appointed by the Warden, the security required under subsection (1) to be given by that inspector shall be given under the Public Officers (Security) Ordinance, and the provisions of that Ordinance shall apply accordingly.

Provided, however, that where the Warden is satisfied that it is desirable that an inspector should be allowed to adjust weights and measures and weighing and measuring instruments within the area of any local authority or in his division as the case may be, the Warden may, if he thinks

(3) Where an inspector is appointed by a local authority, the security required under subsection (1) to be given by that inspector

shall be given to the local authority, and shall be of such nature or description, and subject to such terms and conditions, as may be prescribed.

PART VI

OFFENCES AND PENALTIES, &c.

Sale, use and possession of unstamped weights, &c.

41. Any person who—

- (a) sells or exposes for sale any weight or measure or weighing or measuring instrument which has not been stamped by an inspector with the prescribed mark of verification; or
- (b) in any place or area in which an Order under section 29 is in force, at any time uses for the purpose of any trade or has in his possession for use in any trade, any weight or measure or weighing or measuring instrument which has not, in the period of twelve months immediately preceding such time, been stamped by an inspector with the prescribed mark of verification,

shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

[§17, 7 of 1971.]

Forgery of stamp or mark used by inspectors, and tampering with stamped weighing or measuring instruments.

42. Any person who—

- (a) forges or counterfeits any stamp or mark provided under this Ordinance for the use of inspectors in stamping weights or measures or weighing or measuring instruments ; or
- (b) uses, sells, exposes for sale, utters or otherwise disposes of any weight or measure or weighing or measuring instrument bearing any stamp or mark which he knows to be forged or counterfeited ; or
- (c) removes any mark which has been stamped by an inspector on any weight or measure or weighing or

measuring instrument and inserts such mark on any other weight, measure or instrument; or

- (d) wilfully increases or diminishes a weight or measure which has been stamped by an inspector under this Ordinance, or tampers with a weighing or measuring instrument which has been so stamped, or uses, sells, exposes for sale, utters or otherwise disposes of any weight or measure which he knows to be so increased or diminished or any weighing or measuring instrument which he knows to be tampered with,

[§18,7 of 1971.]

[§18,7 of 1971.]

shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

43. Any person who—

- (a) except under the authority of a licence issued in that behalf under this Ordinance, manufactures or repairs any weight or measure or weighing or measuring instrument; or

Manufacture of weights, &c. without licence.

[§19,7 of 1971.]

- (b) being the holder of such licence," commits a breach of any condition lawfully inserted in the licence,

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 which may extend to six months or to both such fine and imprisonment.

- 44. Any person who refuses to produce any weight or measure or striker or weighing or measuring instrument when required to do so by an inspector under section 35, or who r.""'s or obstructs an inspector in the exercise of the powers conferred upon him by that section shall be guilty of an offence and shall on conviction after summary-trial before a Magistrate be

Refusal to produce weights, &c., for inspection.

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.

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.

Containers of certain articles to have weight or measure printed on such containers. [§20,7 of 1971.]

44A. (1) The Minister may, by Order published in the Gazette, declare any article to be a specified article for the purposes of this section.

(2) No person shall sell, or offer or expose for sale, any specified article packed in a container—

(a) unless the net weight or measure of such article is legibly written or printed on the outside of such container or upon a label firmly attached thereto, or

(b) unless, in a case where such container is cased, enclosed or contained in a package, such net weight or measure, in addition to being legibly written or printed on the outside of such container or upon a label firmly attached thereto, is legibly written or printed on the outside of such package or on a label firmly attached thereto,

(3) A person who contravenes any provision of subsection (2) 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.

False, incorrect or untrue declaration or statement, &c. [§15, Law 24 of 1974.]

44B. Any person who, in any place or area in which an Order under section 29 is in force, by any means whatsoever, whether direct or indirect, makes any false, incorrect or untrue declaration or statement as to the number, quantity, measure, gauge or weight of any goods or things in connexion with their purchase, sale, weighing or measurement, or in the computation of any charges for services rendered on the basis of weight or measure, or who sells, or causes to be sold, or delivers or causes to be delivered to a purchaser anything by weight or measure short of the quantity demanded of or represented by the seller, shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to a fine

44C. Any person who uses for the purpose of any trade, or has in his possession for use in any trade, any weight or measure or weighing or measuring instrument or any striker which is not in conformity with the requirements of any regulation relating to its composition, weight, length or form 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 year or to both such fine and imprisonment.

Use or possession of weights, &c., which are not in conformity with regulations relating to composition, &c. [§20,7 of 1971.]

44D. Any person who uses for the purpose of any trade, or has in his possession for use in any trade, any weight or measure or weighing or measuring instrument which is not just 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 six months or to both such fine and imprisonment.

Use of possession of any weight or measure which is not just. [§20,7 of 1971.]

45. Any inspector who commits a breach of any provision of Part V, or of any regulation relating to the examination, verification or stamping of weights or measures or strikers or weighing or measuring instruments, 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 year or to both such fine and imprisonment.

Breach by inspectors.

46. Any person who commits a breach of any provision of this Ordinance or of any regulation shall, where no punishment is expressly provided for such breach, be guilty of an offence and liable to a fine not exceeding one hundred rupees.

General penalty.

47. Any court may on the conviction of any person of an offence under this Ordinance relating to any weight or measure or striker or weighing or measuring

Forfeiture of weights, &c.

instrument, make order declaring that such weight or measure or striker or weighing or measuring instrument shall be forfeited to the State; and every weight or measure or striker or weighing or measuring instrument which is so forfeited shall be disposed of in such manner as may be prescribed.

Evidence of possession.

48. For the purposes of this Ordinance, any weight or measure or striker or weighing or measuring instrument which is found in the possession of any person who carries on any trade, or on any premises used by any person for the purposes of any trade, shall be deemed, until the contrary is proved, to be in the possession of that person for use in trade.

Sanction for prosecution, [§4, 16 of 1979.]

49. No prosecution shall be instituted against any person for any offence under this Ordinance except by or with the written sanction of the Warden or superintendent for the district or area within which such offence is alleged to have been committed:

Provided, however, that any prosecution in respect of any offence alleged to have been committed in the area within the administrative limits of any local authority may be instituted with the written sanction of the Chairman of that authority.

Payment of fines to local authorities.

50. Where any person is convicted of any offence under this Ordinance committed within the administrative limits of a local authority, the court convicting such person may direct that the whole or part of any fine imposed for that offence shall be paid to that authority ; and any sum so paid shall be credited to the funds of that authority.

Saving for Chapter XIII of the Penal Code.

51. The provisions of this Part shall be in addition to and not in substitution of the provisions of Chapter XIII of the Penal Code.

PART VH

SUPPLEMENTARY

Local inquiries by Deputy Warden or superintendent. [§21,7 of 1971.]

52. (1) The Warden may from time to time direct the Deputy Warden or any superintendent to hold an inquiry with respect to the administration of this Ordinance in any area in Sri Lanka.

(2) Where the Deputy Warden or any superintendent is under subsection (1) directed to hold an inquiry in any area, he shall-

- (a) inspect the working standards and weighing and measuring instruments provided for use by the inspectors appointed for such area or for any division forming part thereof;
- (b) inquire into the procedure observed in the inspection and verification of weights and measures and strikers and weighing and measuring instruments in that area ; and
- (c) make such other investigations as the Warden may direct.

(3) For the purposes of any inquiry authorized to be held in any area, the officer who is directed under subsection (1) to hold such inquiry shall have and may exercise all the powers conferred on an inspector by or under this ordinance.

53. If any dispute arises between an inspector and any other person as to the meaning or construction of any regulation or as to the methods to be adopted in testing any weight, measure or striker or weighing or measuring instrument, such dispute shall, at the request of such inspector or of such other person, be determined by the Warden, and the decision of the Warden on any such dispute shall be final and conclusive.

Settlement of disputes

54. Nothing in this Ordinance shall be deemed to prohibit or restrict the use of any measure other than a unit of measurement specified in the Second Schedule hereto for the purpose of the measurement of the length or extent of any land.

Use of measures- [§16. Law 24 of 1974]

54A. A certificate purporting to be issued by the Warden, the Deputy Warden or an Examiner regarding the condition of any weight or measure or weighing or measuring instrument, examined by him shall, without further proof, be admissible evidence in any court, and shall be prima facie proof of the facts stated therein.

Certificate of Warden, Deputy Warden or Examiner to be prima facie evidence of facts stated therein. [§22,7 of 1971.]

Regulations.

55. (I) 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), such regulations may be made 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 which it is provided in this Ordinance that regulations may be made;
- (b) the tests required to be passed by applicants for certificates under section 4 (3);
- (c) the custody and preservation of the Sri Lanka standards and the secondary standards;
- (d) the manner in which secondary standards shall be authenticated and verified ;
- (e) the composition, weight, length, form and specification of working standards and the manner in which such standards shall be kept and preserved;
- (f) the procedure for the examination and stamping of working standards, and the periodical verification of weighing and measuring instruments provided for use by inspectors;
- (g) the requirements as to the composition, weight, length, form and specification of weights and measures and strikers and the prohibition of the manufacture or use of weights and measures and strikers which do not conform to such requirements;
- (h) the inspection, verification and stamping by inspectors of weights, of measures and strikers and weighing and measuring instruments, the tests to be applied for the purpose of ascertaining the accuracy and efficiency of weights and measures and strikers, the form and design of stamps to be used by inspectors, the manner in which such stamps shall be used and the circumstances in which such stamping shall be prohibited ;
- (i) the limits of error to be allowed on verification and to be tolerated on inspection of weights, measures and weighing and measuring instruments, either generally or as respects any trade;
- (j) the circumstances and conditions under which, the persons by whom, and the manner in which, marks of verification may be obliterated or defaced;
- (k) the fees to be charged by inspectors for the examination, verification and adjustment of weights, measures and weighing and measuring Instruments and the manner in which such fees shall be paid;
- (l) the amount of the security to be given by inspectors, and, in the case of inspectors appointed by local authorities, the manner in which, and the terms and conditions upon which, such security shall be given;
- (m) the form of registers to be kept by inspectors, the particulars to be entered therein and the times at which such registers shall be transmitted to the Warden for inspection;
- (n) the form of licences under section 31, the fees payable therefor and the conditions subject to which such licences shall be issued ;
- (o) the disposal of weights, measures, strikers and weighing and measuring instruments declared to be forfeited under this Ordinance; and

(p) all matters incidental to or connected with the matters or subjects specifically referred to in this subsection.

(3) No regulation shall have effect unless it is approved by Parliament, and until notification of such approval has been published in the Gazette.

(4) Upon the publication in the Gazette of a notification to the effect that a regulation has been approved by Parliament, that regulation shall be as valid and effectual as if it were herein enacted.

Interpretation. **56.** (1) In this Ordinance, unless the context otherwise admits—

" Chairman", in relation to a local authority, means the Chairman of an Urban Council, Town Council or Village Council, and shall, in the case of a Municipal Council, be deemed to be a reference to the person for the time being appointed to be or to act as Municipal Commissioner;

[§23, 7 of 1971.] " container " includes anything in or by which an article is cased, enclosed, contained or packed ;

[§23,7 of 1971.] " Deputy Warden" means the Deputy Warden of the Standards appointed under section 2;

" division " means the area assigned to an inspector under section 4;

[§23.7 of 1971.1] Examiner" means an Examiner of the Standards appointed under section 2;

"inspector" means an inspector of weights and measures appointed under section 4;

" local authority " means any Municipal Council, Urban Council, Town Council, or Village Council which has been declared by an Order under section 3 for the time being in force to be a local authority for the purposes of this Ordinance and includes any Special Commissioner

[§23,7 of 1971.]

or public officer who has been so declared ; the village area for which such Village Council is established being deemed for this purpose to be the area within the administrative limits of such Council.

" measuring instrument" means any instrument used for the measurement of length, area, volume or capacity or any such instrument as may be declared by the Minister by notification published in the Gazette to be a measuring instrument for the purposes of this Ordinance ; [§17. Law 24 of 1974.]

" prescribed" means prescribed by regulation;

" price control inspector " means a price control inspector appointed under the Control of Prices Act; [§5, 16 of 1979.]

" regulation " means a regulation made by the Minister under this Ordinance;

" specified standards laboratory " means any country specified by the Minister for the purpose of this Ordinance by notification published in the Gazette; [§23,7 of 1971]

11 superintendent ", means a superintendent or an assistant superintendent of weights and measures appointed under section 2, [§5,16 of 1979.]

trade ", means any contract, bargain, sale or dealing referred to in subsection (1) of section 22 and includes the packing in Sri Lanka of any article in a container for purposes of sale; [§23, 7 of 1971]

Urban Council" means an Urban Council constituted under the Urban Councils Ordinance;

" Warden" means the Warden of the Standards appointed under section 2 ;

"weighing instrument" includes scales with the weights belonging thereto, scale beams, balances, spring balances, steelyards, weighing machines, instruments constructed to calculate the price in money of articles weighed thereon, and other instruments for weighing;

(2) For the purposes of this Ordinance, a weight or measure shall be deemed to be just—

(a) upon verification, if it is in accordance with a working standard of that weight or measure or has not a greater limit of error than the prescribed limit of error to be allowed on verification ; or

(b) upon inspection, if it is in accordance with a working standard of that weight or measure or has not a greater limit of error than the prescribed limit of error to be tolerated on inspection.

(2A) For the purposes of this Ordinance, a weighing or measuring instrument shall be deemed to be just— [§23.7of 1971]

(a) upon verification, if it has not a greater limit of error than the prescribed limit of error to be allowed on verification ; or

(b) upon inspection, if it has not a greater limit of error than the prescribed limit of error to be tolerated on inspection.

FIRST SCHEDULE

[Section 5.]
[§19, Law 24 of 1974.]

DEFINITIONS

PART 1

The base units of the International System and their symbols are—

- the metre symbol m. — for length
- the kilogramme symbol kg. — for mass or weight
- the second symbol s. ~ for time
- the ampere symbol A. ~ for the intensity of electric current
- the kelvin symbol K. — for thermodynamic temperature
- the candela symbol cd. — for luminous intensity
- the mole symbol mol. — for amount of substance

Definitions of the base units:

1.1 The unit of length is the 'metre'(m).

The metre is the length equal to 1 650 763.73 wave-lengths in vacuum of the radiation corresponding to the transition between the levels 2p,g and 5d, of the Krypton 86 atom. (11th C.G.P.M. (1960), Resolution 6).

The unit of mass is the 'kilogramme' (kg.).

The kilogramme is the unit of mass, it is equal to the mass of the international prototype of the kilogramme. (1st and 3rd C.G.P.M. 1889 and 1901).

1.3 The unit of time is the 'second'(s).

The second is the duration of 9 192 631 770 periods of radiation corresponding to the transition between the two hyperfine levels of the ground state of the Caesium—133 atom. (13th C.G.P.M. (1967), Resolution 1).

1.4 The unit of intensity of electric current is the 'ampere' (A).

The ampere is that constant current which, if maintained in two straight parallel conductors of infinite length, of negligible circular cross-section, and placed 1 metre apart in vacuum, would produce between these conductors a force equal to 2×10^{-7} newtons per metre of length.

(C.I.P.M. (1946), Resolution 2 approved by the 9th C.G.P.M. 1948).

- 1.5 The thermodynamic unit of temperature is the 'kelvin' (K).

The kelvin, unit of thermodynamic temperature, is the fraction $1/273.16$ of the thermodynamic temperature of the triple point of water. (13th C.G.P.M. (1967), Resolution 4), The kelvin is also used to express intervals of temperature.

- 1.6 The unit of luminous intensity is the 'candela' (cd.)

The candela is the luminous intensity, in the perpendicular direction, of a surface of $1/600\,000$ square metre of a black body at the temperature of freezing platinum under a pressure of $101\,325$ newtons per square metre. (13th C.G.P.M. (1967), Resolution 5).

- 1.7 The unit of the amount of substance is the 'mole' (mol).

The mole is the amount of substance of a system which contains as many elementary entities as there are atoms in 0.012 kilogramme of carbon 12.

Note: (1) When the mole is used, the elementary entities must be specified and may be atoms, molecules, ions, electrons, other particles, or specified groups of such particles. (14th C.G.P.M. 1971).

(2) (a) The meanings of the terms used in these definitions will be those that are assigned to them in Physics.

(b) C.G.P.M. stands for the General Conference of Weights and Measures.

PART II

2. The supplementary units are :

the radian—symbol rad—for plane angle.
the steradian—symbol sr—for solid angle.

- 2.1 The unit of plane angle is the 'radian' (rad).

The radian is the plane angle which having its vertex at the centre of a circle intercepts an arc equal in length to the radius.

- 2.2 The unit of solid angle is the 'steradian' (sr).

The steradian is the solid angle which having the centre of a sphere as its vertex cuts out on the surface of this sphere an area equivalent to that of a square of a side equal to the radius of the sphere-

PART III

OTHER BASE UNITS OF MEASUREMENT LEGAL FOR USE

3. The yard—symbol 'yd.' for length.
The pound—symbol 'lb.' for mass or weight.

DEFINITIONS OF THE OTHER BASE UNITS

- 3.1 The yard shall be $0.914\,4$ metre exactly.
3.2 The pound shall be $0.453\,592\,37$ kilogramme exactly.

SECOND SCHEDULE

DEFINITIONS OF UNITS OF MEASUREMENT LEGAL FOR USE IN ALL MEASUREMENT

PART I

1. In general the base units of the International System of Units together with the multiples and sub-multiples formed by addition of the following prefixes to base units are legal for use in all measurements. The abbreviated forms in the multiples and sub-multiples are formed by the placing of symbols for the prefixes directly in front of the symbol for the units.

[Section 6.]
[§ 19, Law 24
Of 1974.]

Multiplicative factors	Prefix	S.I. Symbol
1000 000 000 000 000 000 000 -10	.. exa	.. E
1000 000 000 000 000 — 10	.. peta	.. P
1000000000000 -10.	.. tera	.. T
1000 000 000 — 10	.. giga	.. G
1000000 - 10.	.. mega	.. M
1000 - 10	.. kilo	.. K.
10 — 10	.. deca	.. da
0.1 - 10	.. deci	.. d
0,001 - 10	.. milli	.. m
0.000001 — 10	.. micro	.. μ
0000 000 001 — 10	.. nano	.. n
0.000 (XX) (XX) 001 — 10	.. pico	.. p
0.000000001 — 10	.. femto	.. f
0.000 000 000 000 001 — 10	.. atto	.. a

[§6, 16 of 1979.]

Note—these prefixes are not applied to the base unit of mass or weight, the kilogramme. To obtain the multiples and sub-multiples of the kilogramme, see point S.I.

In addition to the above units the units mentioned in the rest of the Schedule are also valid for use.

PART II

2.—MEASUREMENT OF LENGTH

2.1 Other Metric Units :

1 nautical mile* — 1 8)2 metres
1 centimetre. Symbol cm — 1/100th of a metre

(*The nautical mile is to be used only for purposes of navigation).

[§6, 16 of 1979.]

2.2 British imperial Units :

Mile — 1760 yards
Furlong — 220 yards
Chain — 22 yards
Yard — 0.9144 metre
Foot — 1/3rd of a yard
Inch — 1/36th of a yard

PART III

3.—MEASUREMENT OF AREA

3.1 S.I. units:

hectare, Symbol—ha—the square side of which measures 100 metres
Square kilometre, Symbol—km²—1 000 000 square metres
Square metre, symbol—m²—1/1000 000th of a square kilometre

[§6, 16 of 1979.]
[§6, 16 of 1979.]
[§6, 16 of 1979.]

3.2 Other Metric Units:

hectare, Symbol, ha—10 000 square metres
Acre, Symbol, a — 100 square metres
Square metre, Symbol, m²—100 square metres
Square kilometre, Symbol, km²—1/1000th of a square kilometre

[§6, 16 of 1979.]
[§6, 16 of 1979.]
[§6, 16 of 1979.]
[§6, 16 of 1979.]

3.3 British imperial Units:

Square acre — 640 acres
Acre — 4 840 square yards
Rood — 1 210 square yards
Perch or square pole or rod — 121/4 square yards
Square — 100/9 square yards
Square yard — The superficial area equal to that of a square each side of which measures 1 yard
Square foot — 1/9th of a square yard
Square inch — 1/144th of a square foot

PART IV

4.—MEASUREMENT OF VOLUME OR CAPACITY

4.1 *S.I. units:*

[§6,16 of 1979.] Cubic metre. Symbol— m^3 —volume equal to that of a cube each edge of which measures 1 metre

4.2 *Other Metric Units: — .*

[§6,16 of 1979.1] Hecto litre. Symbol, hl = 100 litres (100 cubic decimetres)
= 1/10th of a cubic metre

[§6,16 of 1979.] Cubic decimetre. Symbol, dm^3 = 1/1000th of a cubic metre

[§6, 16 of 1979.] Litre. Symbol, l = 1 cubic decimetre
= 1/1 000th of a cubic metre

[§6, 16 of 1979.] Cubic centimetre. Symbol, cc = 1/1 00 000th of a cubic metre

Decilitre = 1/10th of a litre which is equal to
1/10 000 of a cubic metre

[§6. 16 of 1979.] Centilitre, Symbol, cl = 1/100th of a litre
1/100 000th cubic metre

Millilitre = 1/1000 000th of a cubic metre
1/1000th of a litre

4.3 *British Units*

4.31 Volume in general

Cubic yard - A volume equal to (that of a cube each edge of which measure 1 yard

Cubic foot = 1/27th cubic yard

Cubic inch = 1/1728th cubic foot

4.32 Liquid measures

Gallon = Space occupied by 10 lbs- weight of distilled water of density 0.998 859 gramme per millilitre weighed in air of density 0.001 217 gramme per millilitre against weights of density 8.136 grammes per millilitre

Quart = Quarter gallon

Pint = 1/2 quart

Gill = 1/4 pint

Fluid ounce = 1/160th gallon

Fluid drachm = 1/8th part of a fluid ounce

Minim = 1/60th part of a fluid drachm

4.33 Dry measures

Bushel = 8 gallons

Peck = 2 gallons

Quart or seer = 1/4th part of a gallon

Pint = 1/8th gallon

Chundu = 1/16th gallon

Gill = 1/32nd gallon

PART V

5. — THE MEASUREMENT OF MASS OR WEIGHT, DENSITY, FORCE, PRESSURE AND VISCOSITY

A. THE MEASUREMENT OF MASS OR WEIGHT

5.1 S./. Units

1 Gramme—symbol g. = 1/1000 kilogramme

(*Note.*—All the prefixes mentioned in-point 1 of the Schedule for the formation of multiples and sub-multiples in the SI system are applied to the gramme and not to the kilogramme).

5.2 Metric Units

1 Metric tonne = 1 000 kilogrammes
 1 Metric carat = 1/5th part of a gramme

5.3 British Imperial Units

5.31 Avoirdupois weight

1 Ton	= 2 240 lb.
1 Candy*	= 560 lb.
1 hundredweight (cwl.)	= 112 lb.
Cental	= 100 lb.
Quarter	= 28 lb.
Stone	= 14 lb.
Pound	= 0.453 592 37 kg.
Ounce	= 1/16 lb.
Dram	= 1/16 oz.
Grain	= 1/7000th.

(•For the use in the weighing of copra only).

5.32 Apothecaries weight

1 oz. Apothecaries	= 480/7000 part of a lb.
1 drachm „	= 1/8 oz. apothecaries
1 scruple „	= 1/3rd of an apothecaries drachm

5.33 Troy weight

1 oz. troy = 480 grains

B. THE MEASUREMENT OF DENSITY AND FORCE

5.4 Density

SI Units:

The SI unit of density is the " kilogramme per cubic metre "

The kilogramme per cubic metre is the density of a homogeneous body of which the mass is 1 kilogramme and the volume 1 cubic metre.

5.5 Other Metric Units

The tonne per cubic metre	= 1 000kg/ m ³
The kilogramme per litre	= 1 000kg/ m ³
The gramme per millilitre	= 1000kg/m ³
The gramme per litre	= 1 kg/ m ³

5.6 Force

SI Units:

The unit of force is the newton—symbol (N). The newton is the force which communicates 10 a moving body of a mass of 1 kilogramme. an acceleration of 1 metre per second per second.

C THE MEASUREMENT OF PRESSURE AND VISCOSITY

5.7 Pressure and Stress

SI Units. The SI unit of stress and of pressure is the pascal symbol 'Pa'.

The pascal is the stress or the pressure which acting on a plane area of 1 square metre exerts on this area a total force of 1 newton.

5.8 Dynamic Viscosity—

The SI unit of dynamic viscosity is the pascal second—symbol 'Pa-s'. The pascal second is the dynamic viscosity of a fluid in which the flow is laminar and in which the velocity gradient under a shearing stress of one pascal is one metre per second over one metre, normal to the plane in which the fluid slides.

5.9 Kinematic Viscosity

SI Units:

The SI unit of kinematic viscosity is the square metre per second

$$\text{symbol } \frac{\text{m}^2}{\text{s}}$$

The square metre per second is the kinematic viscosity of a fluid in which the dynamic viscosity is 1 pascal second and the density of which is equal to 1 kilogramme per cubic metre.

D THE MEASUREMENT OF THE LINEAR DENSITY OF TEXTILES

5.10 Other Metric units—

The tex is the unit of measurement of the linear density, that is to say, the mass in grammes, of one kilometre of yarn.

- 1 milligramme per kilometre = 1 millitex symbol mtex = 1 mg/km
- 1 decigramme per kilometre = 1 decitex symbol dtex = 100 mg/km
- 1 gramme per kilometre = 1 tex symbol tex = 1 g/km
- 1 kilogramme per kilometre = 1 kilotex symbol ktex = 1 kg/km

PART VI

6.— THE MEASUREMENT OF TIME AND FREQUENCY

6.1 Time

- The minute (min) = 60 seconds
- The hour (h) = 3 600 seconds
- The day = 86 400 seconds

6.2 Frequency

The unit of frequency is the hertz (Hz)
The hertz is the frequency of a periodic phenomenon of which the period is one second.

PART VII

7.— THE MEASUREMENT OF TEMPERATURE, HEAT, WORK AND ENERGY

7.1 Temperature

The Degree Celsius (C) is the International Practical Temperature scale in which its zero on the thermodynamical temperature scale is 273.15K
The degree Celsius = The degree Kelvin

The International Practical Temperature Scale is the International Practical Temperature Scale of 1968 described in the Proceedings of the Thirteenth General Conference on Weights and Measures held in Paris in the years 1967 and 1968 and adopted in the year 1968 by the International Committee on Weights and Measures.

7.2 *British Units*

The degree Fahrenheit = 5/9th of a degree Celsius.

The Fahrenheit temperature scale is such that the numerical value of a temperature on that scale is related to the numerical value of that temperature on the International Practical Temperature Scale by the formula—

$$1^{\circ}\text{F} = 32 + 9/5 t^{\circ}\text{C}$$

where 1°F is the numerical value of a temperature on the Fahrenheit temperature scale ; and

$t^{\circ}\text{C}$ is the numerical value of the temperature on the International Practical Temperature.

7.3 Temperature Intervals on the SI temperature scale. International Practical Temperature Scale and the Fahrenheit temperature scale may be referred to by the abbreviations " degK ", " degC " and " degF "-

7.4 The unit of work, energy and quantity of heat is the joule (J)

The joule is the work produced by a force of 1 newton displacing itself by 1 metre in its direction.

PART VIII

8.— THE MEASUREMENT OF ELECTRICAL QUANTITIES

8.1 The following units of measurement, that is to say,

- (a) the ohm as the unit of measurement of electrical resistance.
- (b) the volt as the unit of measurement of the difference of potential.
- (c) the watt as the unit of measurement of electrical power.
- (d) the coulomb as the unit of measurement of the quantity of electricity.
- (e) the farad as the unit of measurement of electrical capacitance.
- (f) the henry as the unit of measurement of electrical inductance.
- (g) the Siemens as the unit of measurement of electrical conductance.

They will have the following meanings :

8.2 *Electrical Resistance*

The unit of electric resistance is the 'ohm' symbol (Ω). The ohm is the electric resistance between two points of a conductor when a constant difference of potential of one volt applied between these two points, produces in this conductor a current of one ampere, this conductor not being the source of any electromotive force.

8.3 *Electrical Potential. Electro-Motive-Force*

The unit of electric potential or tension is the 'volt' symbol (V). The volt (unit of electric potential difference and electromotive force) is the difference of electric potential between two points of a conducting wire carrying a constant current of one ampere, when the power dissipated between these points is equal to one watt.

8.4 *Power*

The unit of power is the 'watt' symbol (W). The watt is the power of a system of energy in which one joule of work is carried uniformly during 1 second.

8.5 *Quantity of Electricity*

The unit of the quantity of electricity is the 'coulomb' symbol (C). The coulomb is the quantity of electricity transported in one second by a current of one ampere.

8.6 *Electric Capacitance*

The unit of electric capacitance is the 'farad' symbol (F). The farad is the capacitance of a capacitor between the plates of which there appears a difference of potential of one volt when it is charged by a quantity of electricity equal to one coulomb.

8.7 *Electric Inductance*

The unit of electric inductance is the 'the henry' symbol (H). The henry is the inductance of a closed circuit in which an electromotive force of one volt is produced when the electric current in the circuit varies uniformly at a rate of one ampere per second.

8.8 *Electric Conductance*

The unit of electric conductance is the 'Siemens' symbol (S). The Siemens is equal to a reciprocal ohm.

PART IX

9.— THE MEASUREMENT OF LUMINOUS INTENSITY AND ILLUMINATION

9.1 The following units of measurement, that is to say—

- (a) the lumen as the unit of measurement of luminous flux.
- (b) the lux as the unit of measurement of illumination.
- (c) the 'candela per square metre' as the unit of luminance.

- They will have the following definitions :

9.2 *Luminous flux*

The unit of luminous flux is the 'lumen' symbol (lm). The lumen is the luminous flux emitted in an angle of 1 steradian by a uniform point source having an intensity of 1 candela.

9.3 *Illumination*

The unit of illumination is, the 'lux' symbol (lx). The lux is the illumination of a surface of 1 square metre which receives a luminous flux of 1 lumen distributed normally and uniformly.

9.4 *Luminance*

The unit of luminance is the 'candela' per square metre (cd/m²). The candela per square metre is the luminance in the normal direction of a plane surface of 1 square metre, of a source the luminous intensity of which, normal to this surface, is 1 candela.

PART X

10.— THE MEASUREMENT OF ANGLE

10.1 The following units may also be used for the measurement of angle,:

Degree (°)	= $\pi/180$ radians
The minute (')	= 1/60 degree
The second (")	= 1/60 of a minute
The grade (. . . g)	= $\pi/200$ radians
The deci-grade	= 1/10th grade
The centi-grade	= 1/100th of a grade

The symbols for the units are given in parenthesis.

PART XI

11.— THE MEASUREMENT OF OPTICAL POWER

11.1 SI Units: The SI unit of the power of an optical system is the dioptre -symbol 'm⁻¹'

The dioptre is the power of an optical system which has a focal distance of t metre in a medium which has a refractive index equal to 1.

PART XII

12.— NUCLEAR ACTIVITY

12.1 Activity : The SI unit of nuclear activity is the becquerel (Symbol, bq). The becquerel is the activity of a radioactive source in which one nuclear transformation or transition occurs per second

[§6, 16 of 1979.]

Bq=S-

PART XIII

13. THE MEASUREMENT OF THE DOSAGE OF EXPOSURE

13.1 SI Units: The SI unit of the dosage of exposure is the coulomb per kilogramme—symbol "C/kg".

The coulomb per kilogramme is the exposure dose to an ionising radiation which produces in a kilogramme of air a total electric charge of ions of the same sign, of 1 coulomb.

13.2 The absorption dose or an equivalent dose of an ionising radiation.

[§6, 16 of 1979.]

The SI unit : The SI unit of the absorption dose or the equivalent dose is the gray (Symbol, Gy). The gray is the dose absorbed in an element of matter of one kilogramme mass to which the energy of one joule is imparted by ionising radiation whose energy fluence is constant (1 GY = J/ttg).

THIRD SCHEDULE

WEIGHTS AND MEASURES AUTHORIZED FOR USE IN ANY TRADE

[Sections 7 and 13.]

1. PART I LINEAR MEASURES

[§19, Law 24 of 1974.]

1.1 *Metric System*

Measures of—

- 100 metres
- 50 metres
- 30 metres
- 20 metres
- 10 metres
- 3 metres
- 2 metres
- 1 metre
- 50 centimetres
- 1 decimetre
- 1 centimetre
- 1 millimetre
- 1 micrometre

1.2 *British Imperial System*

Measures of—

- 100 feet
- 66 feet
- 50 feet
- 33 feet
- 20 feet
- 10 feet
- 8 feet
- 6 feet
- 5 feet
- 4 feet
- 1 yard (3 feet)
- 2 feet
- 1 foot
- 6 inches
- 1 inch

- 1/10th of an inch
- 1/ 12th of an inch
- 1/ 16th of an inch
- 1/32 of an inch
- 1/64th of an inch
- 1/100th of an inch
- 1/128th of an inch
- 1/256th of an inch
- 1/1000th of an inch

2.—PART II—SQUARE MEASURES

- 2.1 *Metric System*
Measure of, or any multiple of,
1 square decimetre
- 2.2 *Imperial System*
Measure of, or any multiple of,
1 square foot

3.—PART III—(a) CUBIC MEASURES

- 3.1 *Metric System*
Measures of, or any multiple of,
the cubic decimetre = 0.001m³
- 3.2 *British Imperial System*
Measures of, or any multiple of,
1/4th cubic yard

(b) CAPACITY MEASURES LIQUID

- 3.3 *Metric System*
Measures of—
 - 10 litres, or any multiple of 10 litres
 - 0.5 litres
 - 2 1/2 litres
 - 2 litres
 - 1 litre
 - 500 millilitres
 - 250 millilitres
 - 200 millilitres
 - 100 millilitres
 - 50 millilitres
 - 25 millilitres
 - 20 millilitres
 - 10 millilitres
 - 5 millilitres
 - 2 millilitres
 - 1 millilitre

- 3.4 *British Imperial System*
Measures of
 - 1 gallon or any multiple of 1 gallon
 - 1/2 gallon
 - 1 quart
 - 1 pint
 - 1/2 pint
 - 16 fluid ounces
 - 1 gill
 - 4 fluid ounces
 - 1, 2 gill
 - 1, 4 gill
 - 1 fluid ounce or sub-multiples of 1 fluid ounce
 - 4 fluid drachms,
 - 2 Uncia drachms
 - 1 fluid drachm
 - 60 minims
 - 30 minims
 - 10 minims

(c) CAPACITY MEASURES DRY

3.5 *British Imperial System*

Measures of — I bushel
1/2 bushel
I peck

4. PART IV -WEIGHTS

4.1 *Metric System*

(a) Weights of-

50 kilogrammes	
20 kilogrammes	
10 kilogrammes	
5 kilogrammes	
2 kilogrammes	
I kilogramme	
500 grammes	500 milligrammes
200 grammes	200 milligrammes
100 gcammeii	100 milligrammes
50 grammes	50 milligrammes
30 grammes	30 milligrammes
20 grammes	20 milligramme-,
10 grammes	10 milligrammes
5 grammes	5 milligrammes
3 grammes	3 milligrammes
2 grammes	2 milligrammes
I gramme	1 milligramme

(a) Weights of

500	carats (metric)
200	carats (metric)
100	carats (metric)
50	carats (metric)
20	carats (metric)
10	carats (metric)
5	carats (metric)
2	carats (metric)
	carat (metric)
0.5	carat (metric)
0.25	carat (metric)
0.2	carui (metric)
0.1	carat (metric)
0.05	carat (metric)
0.02	carat (metric)
0.01	carat (metric)

4.2 *British Imperial System*

(a) Weights of

56	pounds
50	pounds
2K	pounds
20	poundi
14	pounds
10	pounds
7	pounds
5	pounds
4	pounds
2	pounds
t	pound
8	ounces (I , 2 lb.)
4	ounce-, (1 , 4 lb.)
2	ounces

WEIGHTS AND MEASURES

- 1 ounce
- 8 drams (1/2 oz.)
- 4 drams
- 2 drams
- 1 dram
- 1/2 dram
- 4000 grains
- 2000 grains
- 1000 grains
- 500 grains
- 300 grains
- 240 grains
- 200 grains
- 120 grains
- 100 grains
- 72 grains
- 50 grains
- 45 grains
- 30 grains
- 24 grains
- 20 grains
- 10 grains
- 6 grains
- 5 grains
- 4 grains
- 3 grains
- 2 grains
- 1 grain
- 0.5 grain
- 0.3 grain
- 0.2 grain
- 0.1 grain
- 0.05 grain
- 0.03 grain
- 0.02 grain
- 0.01 grain
- (b) 500 ounces troy
- 400 ounces troy
- 300 ounces troy
- 200 ounces troy
- 100 ounces troy
- 50 ounces troy
- 40 ounces troy
- 30 ounces troy
- 20 ounces troy
- 10 ounces troy
- 5 ounces troy
- 4 ounces troy
- 3 ounces troy
- 2 ounces troy
- 1 ounce troy
- (c) 1 ounce apothecaries
- 4 drachms apothecaries
- 2 drachms apothecaries
- 1 drachm apothecaries
- 2 scruples apothecaries
- 1/2 scruple
- 1 scruple
- 1/2 scruple

CHAPTER 619

WIDOWS' AND ORPHANS' PENSION SCHEME (ARMED FORCES)

Act
No. 18 of 1970.

AN ACT TO ESTABLISH AND MAINTAIN A SCHEME FOR THE GRANT OF PENSIONS TO WIDOWS AND CHILDREN OF DECEASED MEMBERS OF THE ARMED FORCES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[24th March. 1970.]

Short title.

1. This Act may be cited as the Widows' and Orphans' Pension Scheme (Armed Forces) Act.

(b) prescribing the conditions and circumstances in which, and the restrictions subject to which, the widows and children of deceased contributors will be eligible for the grant of pensions;

Establishment of Widows' and Orphans' Pension Scheme.

2. There may be established, in accordance with the regulations, a Widows' and Orphans' Pension Scheme for the grant of pensions to the widows and orphans of deceased members of the armed forces who have been, or are deemed to have been, contributors to such Pension Scheme.

(c) fixing the contributions to be made to the Pension Scheme by contributors;

Contributors to the Pension Scheme.

3. (1) Any person who became a member of the armed forces on or before September 30, 1968, and who continues to be such member after that date may before the prescribed date elect to be a contributor to the Pension Scheme :

(d) authorizing the deduction of contributions from the pay and allowances of, or from other moneys due to or in respect of, contributors and prescribing the procedure for making such deductions;

Provided that where such person dies before the prescribed date and without making an election under the preceding provisions of this subsection, he shall, if he leaves a wife or child or a wife and child or a wife and children, be deemed to have elected to be a contributor to the Pension Scheme.

(e) authorizing the payment into the Consolidated Fund of contributions made to the Pension Scheme by contributors;

(2) Any person who has become or becomes a member of the armed forces on or after October 1, 1968, shall be a contributor to the Pension Scheme.

(f) prescribing the circumstances in which, and the conditions subject to which the contributions made to the Pension Scheme by a contributor may be refunded and providing for the payment of interest on contributions so refunded;

(3) An election made under subsection (1) shall be final.

(g) prescribing the mode of calculating the pensions payable to the widows and children of deceased contributors;

Regulations for the Pension Scheme.

4. (1) Regulations may be made—

(a) providing for the establishment, regulation, administration and management of the Pension Scheme;

(h) in respect of all matters incidental to or connected with the Pension Scheme for which no express provision is made in this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), regulations made under that subsection in

WIDOWS' AND ORPHANS' PENSION SCHEME (ARMED FORCES) [Cap. 619]

respect of any matter may make provision similar to that made in respect of the same matter in the Widows' and Orphans' Pension Fund Ordinance.

5. All pensions, refunds and interest on refunds payable under this Act shall be a charge on the Consolidated Fund.

6. Any contribution, pension, refund, or interest on a refund payable under this Act shall not be assignable or transferable or liable to be attached, or sequestered or levied upon, in execution of any decree or order of court, for or in respect of any debt or claim whatsoever.

7. (1) The Minister in charge of the subject of Public Administration may make regulations in respect of all matters for which regulations are authorized to be made under this Act.

(2) Every regulation made by the Minister under subsection (1) shall be published in the Gazette and shall come into operation on the date specified in that behalf in the regulation or, if no date is so specified, on the date on which it is so published.

(3) Regulations made by the Minister under subsection (1) authorizing the deduction of contributions to the Pension Scheme from the pay and allowances of, or from other moneys due to or in respect of, contributors and prescribing the procedure for making such deductions shall have effect notwithstanding anything to the contrary in any other written law.

(4) Every regulation made by the Minister under subsection (1) shall, as soon as practicable, be brought before Parliament by a motion that such regulation shall be approved.

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

(6) Notification of the date on which any regulation made by the Minister under subsection (1) is deemed to be rescinded shall be published in the Gazette.

8. In this Act, unless the context otherwise requires—

"contributor" means a member of the armed forces who is, or is deemed to have been, a contributor to the Pension Scheme;

"member of the armed forces" means any person—

(a) who, being a male, is an officer or soldier of the Regular Force of the Sri Lanka Army, or

(b) who, being a male, is an officer or seaman of the Regular Naval Force of the Sri Lanka Navy, or

(c) who, being a male, is an officer or airman of the Regular Air Force of the Sri Lanka Air Force,

but does not include—

(i) any such officer or soldier of the Regular Reserve, Volunteer Force or Volunteer Reserve as is deemed to be an officer or a soldier of the Regular Force under subsection (3) of section 3 of the Army Act, or

(ii) any such officer or seaman of the Regular Naval Reserve, Volunteer Naval Force or Volunteer Naval Reserve as is deemed to be an officer or a seaman of the Regular Naval Force under subsection (3) of section 3 of the Navy Act, or

(iii) any such officer or airman of the Regular Air Force Reserve, Volunteer Air Force or Volunteer Air Force

Pensions, &c., to be a charge on the Consolidated Fund.

Contributions, &c., not to be assigned or attached.

Minister in charge of Public Administration to make regulations.

Interpretation.

Cap. 619] WIDOWS' AND ORPHANS' PENSION SCHEME (ARMED FORCES)

Reserve as is deemed to be an officer or airman of the Regular Air Force under subsection (3) of section 3 of the Air Force Act;

"Pension Scheme" means the Widows' and Orphans' Pensions Scheme established under this Act;

"prescribed" means prescribed by regulation;

" regulation " means a regulation made by the Minister in charge of the subject of Public Administration under this Act.

9. The provisions of section 2, section 4 and section 7 and the other provisions of this Act in their application to the Pensions Scheme shall have effect and be deemed to have had effect from the first day of October, 1968, and accordingly any regulation made under this Act in respect of such Scheme may be declared to be effective from that date or any subsequent date.

Restrospective effect of certain provisions of this Act.

CHAPTER 564

WELLS AND PITS

Ordinances AN ORDINANCE TO PROVIDE AGAINST ACCIDENTS ARISING BY REASON OF WELLS AND
 Nos.27of 1884, ARTIFICIAL PITS BEING INSUFFICIENTLY FENCED ROUND OR OTHERWISE
 11 of 1921, PROTECTED-
 26 of 1934,
 61 of 1939,
 3 of 1946.

[29th November, 1884.]

Short title. **1.** This Ordinance may be cited as the Wells and Pits Ordinance.

Gazette, and any such rule or rules shall come into operation, or shall stand abolished, as the Ccise may be, on or from such date as shall be fixed by the Minister.

Interpretation. **2.** The expression " occupier " means the person in the actual occupation of the land on which any well or artificial pit may be, whether such person is or is not the proprietor of the land, and if there be no one in actual occupation of such land, then the proprietor of such land if in Sri Lanka, and if absent from Sri Lanka, then the duly authorized agent or attorney of such proprietor.

7. The purposes for which rules may be made as provided by sections 5 and 6 of this Ordinance are the following :—

Purposes for which rules may be made.

- (a) the nature of the fencing to be erected round any well or artificial pit;
- (b) the nature and extent of any repairs which may at any time be required to be made to such fencings ;
- (c) the time within which any such fencing or repairs is or are respectively to be erected or carried out.

Wells and pits to be fenced. **3.** The occupier of any land within Sri Lanka on which there may now or at any time hereafter be any well or artificial pit shall, whether he shall have received any such notice as is provided for in section 9 of this Ordinance or not, and whether the said well or artificial pit be in use or abandoned, cause the said well or artificial pit to be securely fenced to the height of two and a half feet above the level of the ground, unless any such well or atificial pit shall be so securely fenced already.

8. The Government Agent or Assistant Government Agent of any district may appoint one or more persons to be inspectors of wells and pits within any area in such district, and such persons when so appointed shall have authority at all times to proceed to and inspect any well or pit within the respective areas for which they have been appointed, and every such inspector shall be deemed a public servant within the meaning of that term in the Penal Code.

Government Agent or Assistant Government Agent may appoint inspectors of wells and pits within their respective districts.

Fences to be efficiently maintained. **4.** All such fencing shall be maintained in an efficient state by the occupier of the premises for the time being.

Minister may make rules. **5.** It shall be lawful for the Minister, from time to time, to make any rule or rules for each of the purposes hereinafter mentioned, and from time to time to add to, alter, amend, or abolish any rule or rules so made.

9. Should any such inspector at any time find that in his opinion any such well or pit is likely to be dangerous to life or limb, he shall in the first instance report such fact to the Government Agent or Assistant Government Agent of the district

Inspector may give notice requiring that wells and pits should be fenced and fences repaired.

Rules made by Minister may be altered or amended **6.** Any rule or rules so made, added to, altered, or amended shall be published, or if abolished notice thereof shall be given in the

wherein such well or pit may be, and if such Government Agent or Assistant Government Agent shall after inquiry concur in the opinion of the inspector and notify his concurrence to the inspector, the inspector shall thereupon give notice in writing to the occupier of the land on which such well or pit may be to duly fence it within such time as such inspector may deem reasonable ; and if in the opinion of such inspector any repairs are required to the fencing of any such well or pit, he shall give a similar notice to have such repairs completed by or before a certain date.

seizure and of the sale hereinafter mentioned, shall be sold by public auction by the Government Agent or Assistant Government Agent of the district in which such land is situated, who is hereby authorized to seize and sell the same:

Provided that should any balance remain in the hands of the Government Agent or Assistant Government Agent after such expenses are satisfied, such balance may be paid to the late proprietor of the land on which such well or artificial pit may be, if claimed within two years from the time of the sale thereof.

Occupiers failing to fence or repair when required, to be liable to costs of the same being carried out.

10. Should any occupier upon whom any such notice shall have been served (and the posting of a notice to the usual place of abode of such occupier shall be prima facie evidence that such notice reached such occupier) fail to erect such fencing or to make such repairs as shall be required by such notice, the same may be ordered to be done by the inspector, and the costs thereof and in connexion therewith shall be recoverable from the occupier who was called upon to carry out the same, and who shall, whether called upon to pay any such costs or not, be nevertheless liable to such penalty as may be prescribed for the breach of any provision of, or any rule made under, this Ordinance.

12. Whenever any immovable property is purchased under the provisions of this Ordinance, it shall be lawful for the Government Agent or Assistant Government Agent selling any such property under this Ordinance to bid for and purchase the same on behalf of the State. A certificate substantially in the form A or B in the Schedule, as the case may be, signed by the Government Agent or Assistant Government Agent shall vest the property sold absolutely in the purchaser, or in the State if purchased on behalf of the State, free from all incumbrances, and such certificate shall be received in the Courts of Justice of Sri Lanka as conclusive evidence of the title of the purchaser to such immovable property.

State may purchase land sold under this Ordinance.

Procedure when proprietor cannot be found.

11. Should it not be possible to ascertain who is the proprietor of any land whereon a well or artificial pit may be required to be fenced, or the fencing thereof may be required to be repaired, it shall be lawful for an inspector under this Ordinance to cause the necessary fencing or repairs to be made, or to cause the well or artificial pit to be filled in, and by a notice to be published not less than three times in one Sinhala and in one Tamil newspaper in Sri Lanka, with an interval of one week at least between each publication, to declare that unless the costs of such fencing or repairs or filling in be paid within a certain time by the proprietor of such land, which time shall be specified in such written notice, that the land on which such well or artificial pit may be will be seized, and such portion thereof as it may be necessary to sell to cover such costs, together with the costs of such

*13. Every occupier who shall commit a breach of any obligation imposed by this Ordinance, or a breach of any rule proclaimed under the provisions of this Ordinance, shall be deemed guilty of an offence punishable by a fine which may extend to fifty rupees, or by imprisonment, with or without hard labour, which may extend to three months.

Penalties for breaches of Ordinance or rules framed under it.

14. Any occupier who feels aggrieved with any requisition made upon him to fence or repair the fencing of any pit or well under this Ordinance may, within fourteen days of receiving such notice, appeal to the Minister, who shall determine whether such fencing or repairs should or should not be carried out.

Occupier who feels aggrieved with any requisition may appeal to the Minister.

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

Occupier may deduct cost of fence or repair thereof from rent, if any due to proprietor, or may sue proprietor for amount.

15. The cost of erecting any such fencing or carrying out any such repairs as is or are referred to in this Ordinance shall be borne in the first instance by the occupier, who shall be entitled to deduct the same from any rent that may be due from him to the proprietor of the land whereon such fencing or repairs is or are carried out, or to sue such proprietor for the same as money paid to his use.

Mayor or Chairman of that Council to the exclusion of the Government Agent or the Assistant Government Agent of the district of which the area forms a part.

(2) In the application of section 12 of this Ordinance to any property situated within the administrative limits of any Municipal Council or Urban Council or Town Council, all references in that section to the State shall be construed as references to that Council.

Mayor or Chairman of Municipal Councils and Urban or Town Councils to exercise powers of Government Agent under this Ordinance.

16. (1) All the powers of a Government Agent or of an Assistant Government Agent under this Ordinance shall, in any area within the administrative limits of any Municipal Council constituted under the Municipal Councils Ordinance, or any other written law, or of any Urban Council or Town Council constituted under the Urban Councils Ordinance or the Town Councils Ordinance, and in respect of all property situated therein, be exercised by the

17. Nothing in this Ordinance shall affect the provisions of section 89 of the Police Ordinance, and any prosecutions under that section may take place as if this Ordinance had not been passed :

This Ordinance not to affect section 89 of the Police Ordinance.

Provided that no person shall be convicted under such section and under this Ordinance on the same facts.

SCHEDULE

[Section 12.]

FORM A

Whereas the sum of rupees was due to the State for the costs of fencing (or repairs to fencing, or the filling in) of the (wells or pits, as the case may be) on the land hereinafter more particularly mentioned and described, and a further sum of rupees was likewise due for costs in connexion with the same, which said sums have not been paid by the person liable therefor :

And whereas the said land was seized in conformity with the Wells and Pits Ordinance, and sold also in conformity therewith on the day of 19 and the same was purchased by {here insert name of purchaser} for the sum of rupees which has been duly paid by the said

Now know ye that I (Government Agent, or Assistant Government Agent, as the case may be), by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (here describe it properly with special accuracy as to boundaries), has been sold to and purchased by the said for the sum of rupees, which said sum has been duly paid as afore'said, and that the said premises are and shall henceforward be vested in the said purchaser, his heirs, executors, administrators, and assigns, free of all incumbrances.

Given under my hand at this day of 19

(Signed)
Government Agent.
(Or Assistant Government Agent.)

[Section 12.]

FORM B

Whereas the sum of rupees was due to the State for the costs of fencing (or repairs to fencing, or the filling in) of the (wells or pits, as the case may be) on the land hereinafter more particularly mentioned and described, and a further sum of rupees was likewise due for costs incurred in the seizure and sale of the said land :

And whereas the said sums have not been paid by the person liable therefor, and whereas the aforesaid land was seized in conformity with the Wells and Pits Ordinance, and sold also in conformity therewith on the day of 19 and the same was purchased by for and on

WELLS AND PITS

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behalf of the State for the sum of rupees which has been duly credited to the State in (part *or* full, *as the case may be*) satisfaction of the costs of (fencing, *or* repairs to fencing, *or* the filling in) of the (wells *or* pits, *as the case may be*) aforesaid, and of the seizure and sale of the said land :

Now know ye that I, (Government Agent *or* Assistant Government Agent, *as the case may be*), by virtue and in exercise of (he power vested in me in this behalf by the said Ordinance, do hereby certify that the following properly, to wit;— (*here describe the property with special accuracy as in boundaries*), has been sold to and purchased by the said for and on behalf of the State for the sum of rupees whicK said sum has been duly credited to the State, and that the said premises are and shall henceforward be vested in the State, free of all incumbrances.

Given under my hand at this day of 19.

(Signed).....
Government Agent.
(Or Assistant Government Agent.)

CHAPTER 158

WORKMEN'S COMPENSATION

Ordinances AN ORDINANCE TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO WORKMEN WHO
 Nos. 19 of 1934, ARE INJURED IN THE COURSE OF THEIR EMPLOYMENT.
 3 of 1946,

Acts
 Nos. 31 of 1957,
 22 of 1959,
 4 of 1966.

[1st August, 1935.]

PART I

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Workmen's Compensation Ordinance.

interpretation. 2. (1) In this Ordinance, unless the context otherwise requires—

" adult " and " minor " mean respectively a person who is not and a person who is under the age of fifteen years;

" Commissioner " means any person appointed under section 26 to be or to act as a Commissioner or as a Deputy Commissioner for Workmen's Compensation, and includes any person appointed under section 27 to be or to act as an Assistant Commissioner for Workmen's Compensation;

" compensation " means compensation as provided for in this Ordinance;

" dependant " means any of the following relatives of a deceased workman, namely:—

(a) a wife, a minor legitimate son, an unmarried legitimate daughter, or a widowed mother; and

(b) if wholly or in part dependent on the earnings of the workman at the time of his death, a husband, a parent other than

a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent;

" employer " includes the Republic of Sri Lanka and any body of persons whether corporate or unincorporate and any managing agent of an employer and the heirs, executors or administrators of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

" local authority " includes a Municipality, an Urban Council established under the Urban Councils Ordinance, a Town Council, and a Village Council;

" managing agent " means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

" partial disablement " means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

" prescribed " means prescribed by this Ordinance or by any regulation made thereunder;

" registered medical practitioner " means a person registered as a medical practitioner under the Medical Ordinance, or under any enactment amending that Ordinance;

" registered ship " means any sea-going ship or boat of any description which is registered or required to be registered in Sri Lanka as a Sri Lanka ship;

" regulation " means a regulation made under this Ordinance;

" seaman " means any person forming part of the crew of any registered ship, but does not include the master of any such ship ;

" total disablement " means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries

specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred *per centum*;

" wages " includes the monetary value of any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

" workman " means any person who is employed on wages not exceeding five hundred rupees per mensem in any such capacity as is for the time being specified in Schedule II, whether the remuneration is calculated by time or by work done or otherwise, and whether the contract of employment or service was made before or after the commencement of this Ordinance, and whether such contract is expressed or implied, oral or in writing; but does not include—

(a) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;

(b) a person working in the capacity of a member of* the Armed Forces of Sri Lanka, other than a person employed in a civilian capacity in any of those forces;

(c) a member of the police force of Sri Lanka.

(2) A reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

Cap. 158] WORKMEN'S COMPENSATION

(3) The exercise and performance of the powers and duties of any department of the Government or of any local authority shall, for the purposes of this Ordinance, unless a contrary intention appears, be deemed to be the trade or business of that department or local authority.

(b) contracts an occupational disease described in the first column of Part B of the aforesaid Schedule whilst he is in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any process described in the corresponding entry in the second column of that Part,

PART II

LIABILITY To PAY COMPENSATION

Employer's liability to pay compensation for injury suffered by a workman.

3. If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Ordinance:

Provided that the employer shall not be so liable—

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding seven days ;
- (b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—
 - (i) the workman having been at the time thereof under the influence of drink or drugs, or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

the contracting of the disease shall be deemed to be an injury by accident within the meaning of section 3, and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

5. Save as provided by section 4, no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

Circumstances in which compensation is payable in respect of any disease.

PART III

AMOUNT OF COMPENSATION

6. (1) Subject to the provisions of this Ordinance, the amount of compensation shall be as follows, namely :—

(A) Where death results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(ii) in the case of a minor—two hundred rupees.

(B) Where permanent total disablement results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of

Employer's liability to pay compensation for certain diseases contracted by a workman. [§ 3, 31 of 1957.]

4. (1) If a workman-

(a) contracts an occupational disease described in the first column of Part A of Schedule III whilst he is employed in any process described in the corresponding entry in the second column of that Part or,

Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees.

(C) Where permanent partial disablement results from the injury—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury:

Provided that in a case where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

(D) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV— of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees :

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

In a case where for the whole or any part of the period of disablement referred to in paragraph (a) of this proviso, a workman occupies any premises belonging to or provided by his employer and pays no rent to him for such occupation, the amount fixed by agreement between the workman and his employer or, failing such agreement, the amount determined by the Commissioner as a fair rental of the premises for the period of such occupation shall be deemed to have been received by the workman as an allowance by way of compensation from his employer for the purpose of computing the deduction to be made from any lump sum or half-monthly payments to which the workman is entitled.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

(3) The use in this section of the expression 'monthly wages' shall not exclude any workman from the right to compensation under this Ordinance by reason only of the fact that he is not paid at a monthly rate or that his remuneration is calculated by time or by work done or at a daily rate.

Method of calculating wages.

7. (1) For the purposes of this Ordinance the monthly wages of a workman shall be calculated as follows, namely :—

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period ;
- (b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;
- (c) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review of half-monthly payments.

8. (1) Any half-monthly payment payable under this Ordinance, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application, either of the employer or of the workman accompanied by the certificate of a registered medical practitioner that there has been a change in the condition of the workman, or, subject to regulations made

under this Ordinance, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

9. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amounts as may be agreed to by the parties or determined by the Commissioner, as the case may be.

Commutation of half-monthly payments.

PART IV

PAYMENT, DISTRIBUTION AND RECOVERY OF COMPENSATION

10. (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Ordinance.

Persons entitled to compensation.

(2) Where a dependant dies before a claim under this Ordinance is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the heirs, executors, or administrators of that deceased dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

(3) Where there are both total and partial dependants, nothing in this Ordinance shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

11. (1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the

Deposit of compensation with Commissioner in certain cases.

Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation :

fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid; but no such repayment shall be made until after the expiry of a period of twelve months reckoned from the date on which the money was deposited under section 11. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

[§4,31 of 1957.]

[§4,31 of 1957.]

Provided that, in the case of a deceased workman, an employer may make to one or more of the dependants advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to the dependant or dependants shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(5) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

(2) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under subsection (1), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

13. (1) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may in other cases, pay the money to the person entitled thereto.

Payment of compensation.

(2) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in that behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

Distribution of compensation.

12. (1) On the deposit of any money under section 11 as compensation in respect of a deceased workman, the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding twenty-five rupees and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant resident in Sri Lanka in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may

14. (1) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any

Variation of Commissioner's order of distribution, &c.

other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case :

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(2) Where the Commissioner varies any order under subsection (1) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 41.

Workman leaving Sri Lanka to reside elsewhere.

15. (1) If a workman receiving or entitled to receive a half-monthly payment intends to leave Sri Lanka in order to reside permanently in another country, he shall give the Commissioner ten days' previous notice of such intention; and the Commissioner shall forthwith inform the other party, who may agree with the workman to continue the payments in the country in which the workman intends to reside. If the parties cannot agree, either party may apply to the Commissioner for the redemption of such half-monthly payments and the Commissioner shall thereupon determine the amount of the lump sum which shall be payable in lieu of such payments.

(2) If a workman receiving or entitled to receive a half-monthly payment leaves Sri Lanka for the purpose of residing in another country without giving such notice as is required by the provisions of subsection (1), he shall, if the Commissioner after inquiry certifies in writing that he has left Sri Lanka for such purpose and without giving due notice, cease to be entitled to any benefits under this Ordinance during his absence from Sri Lanka; but he shall, for the

purpose of section 6 (1) (D), be deemed to have received half-monthly payments during such absence :

Provided that the Commissioner may revoke his certificate if he is satisfied that the workman had reasonable grounds for not giving such notice.

(3) A notice or application under this section may be given or made on behalf of any workman by the Commissioner.

16. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within one year of the occurrence of the accident or, in case of death, within one year from the date of death :

Procedure for recovery of compensation. Notice and claim.

[§5,31 of 1957.]

[§5,31 of 1957.]

Provided that, where the accident is the contracting of a disease in respect of which the provisions of section 4 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease;

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(a) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or irregularity, or that such want, defect or irregularity was occasioned by mistake, absence from Sri Lanka, or other reasonable cause.

(2) The Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice required by subsection (1) has not been given, or that the claim has not been instituted in due time as required by that subsection, if he is satisfied that the failure so to give notice or to institute a claim, as the case may be, was due to sufficient cause.

Form of notice.

17. A notice under section 16 may be given either in writing or orally to the employer (or, if there is more than one employer, to one of such employers), or to any foreman or other official under whose supervision the workman is employed, or to any person designated for the purpose by the employer, and shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident occurred.

Notice-book.

18. (1) The Minister may by regulation require any specified class of employers to maintain at their premises at which workmen are employed a notice-book in the prescribed form which shall be readily accessible at all reasonable times to any workman who is injured while employed on the premises and to any person acting bona fide on his behalf.

(2) Any employer who acts in contravention of any regulation made by the Minister 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 fifty rupees.

Service of notice.

19. A notice under section 16 may be served by delivering it at, or sending it by

registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

20. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

Power of Commissioner to require statements from employers regarding fatal accidents.

(2) Where an employer is served with a notice under subsection (1), he shall, unless he disclaims liability to deposit compensation on any ground other than the ground that there are no dependants of the deceased workman, make the deposit within thirty days after the service of the notice.

[§6,31 of 1957.]

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other or further information as he may think fit.

21. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a registered medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Ordinance shall, if so required, submit himself for such examination from time to time:

Medical examination.

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with regulations made under this Ordinance, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under subsection (1) or by the Commissioner at any time, refuses to submit himself for examination by a registered medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under subsection (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed or the place in which he was resident at the time of the accident his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under subsection (2) or subsection (3), dies without having submitted himself for medical examination as required by either of those subsections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under subsection (2) or subsection (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (D) of subsection (1) of section 6, the waiting period shall be increased by the period during which the suspension continues.

[§ 7,31 of 1957.]

(6) Where the employer of an injured workman offers to him the services of a registered medical practitioner free of charge and—

(a) the workman accepts such offer but deliberately disregards the

instructions of the registered medical practitioner, or

(b) the workman refuses to accept such offer and thereafter either fails to take treatment regularly from a registered medical practitioner or whilst being regularly attended by a registered medical practitioner deliberately disregards the instructions of such practitioner,

then, if the disregard referred to in paragraph (a) or the refusal and failure or disregard referred to in paragraph (b) is or are unreasonable in the circumstances of the case and the injury is aggravated thereby, the injury and the resulting disablement shall be deemed to be of the same nature and duration as they might reasonably be expected to be if the workman had been regularly attended by a registered medical practitioner and had not deliberately disregarded the instructions of such practitioner; and compensation, if any, shall be payable accordingly.

22. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purpose of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Ordinance shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

Right of workman to recover compensation from principal of contractor under whom he is employed.

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who

is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation; and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against third parties.

23. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 22 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

24. (1) Where any employer has entered into a contract with any insurer in respect of any liability under this Ordinance to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the

workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in subsection (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that subsection shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this subsection shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings and that the employer was insured and with whom.

(4) There shall be deemed to be included among the debts which—

(a) under section 96 of the Insolvency Ordinance are to be paid out of the estate and effects of an insolvent before any other debts, and

(b) under section 253 (1) (c) and (</) of the Companies Ordinance* are, in the distribution of the assets of any company being wound up, to be paid in priority to other debts,

the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say:—

(i) in the first case, the date of the adjudication of insolvency;

(ii) in the second case, the date of the commencement of the winding up of the company;

* Repealed and replaced by the Companies Act, No. 17 of 1982.

and the provisions of the two Ordinances mentioned in this subsection shall apply accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 9, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of subsection (4) shall apply in the case of any amount for which an insurer is entitled to prove under subsection (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in subsection (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

PART V

MASTERS AND SEAMEN

Special provisions relating to masters and seaman.

25. This Ordinance shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely :—

(a) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(b) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(c) Where an injured master or seaman is discharged or left behind in a foreign country, any depositions taken by any consular officer in the foreign country and transmitted by him shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (i) if the deposition is authenticated by the signature of the consular officer before whom it is made ;
- (ii) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and
- (iii) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(d) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in Sri Lanka relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under section 11 without making the deduction referred to in section 12.

(e) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Sri Lanka relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

PART VI

APPOINTMENT OF COMMISSIONER AND OTHER OFFICERS

Appointment of Commissioner and Deputy Commissioners. [§ 2, 22 of 1959.]

26. There may be appointed, by name or by office, a Commissioner for Workmen's Compensation for Sri Lanka and such number of Deputy Commissioners for Workmen's Compensation for the Island as may be necessary.

Appointment of Assistant Commissioners.

27. There may be appointed such number of Assistant Commissioners for Workmen's Compensation as may be necessary, for such local areas as may be specified in the respective notifications relating to their appointments.

All officers deemed to be public servants.

28. Any officer appointed under section 26 or section 27 shall be deemed to be a public servant within the meaning of the Penal Code.

Protection of public servants.

29. No action shall be maintained against any public servant for anything by him done or omitted to be done in good faith under this Ordinance.

PART VII

PROCEEDINGS BEFORE COMMISSIONERS

Disputes to be settled by Commissioner.

30. If any question arises in any proceeding under this Ordinance as to the liability of any person to any compensation (including any question as to whether a person injured is or is not a workman), or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), or as to the age of any workman or dependant, the question shall, in default of agreement, be settled and determined by a Commissioner.

Each Commissioner to deal with matters relating to accidents in his local area.

31. Where any matter is under this Ordinance required to be done by or before a Commissioner, the same shall, subject to the provisions of this Ordinance and to any regulations made thereunder, be done by or before a Commissioner entitled to function as such in the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before a Commissioner entitled to function as such in the local area in which the owner or agent of the ship resides or carries on business.

32. Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Ordinance, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry, to assist him in holding the inquiry.

Commissioner entitled to assistance of experts.

33. (1) If a Commissioner is satisfied by any party to any proceedings under this Ordinance pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to regulations made under this Ordinance, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings.

Transfer of case from one Commissioner to another.

(2) The Commissioner to whom any matter is so transferred shall, subject to regulations made under this Ordinance, inquire thereinto, and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(3) On receipt of a report from a Commissioner to whom any matter has been transferred for report under subsection (1), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

34. (1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or dependants for compensation, shall be made unless and until some question has arisen between the parties in connexion therewith which they have been unable to settle by agreement.

Form of application to Commissioner for settlement of question in dispute.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims ;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;
- (c) the names and addresses of the parties ; and
- (d) except in the case of an application by dependants for compensation, a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Powers of Commissioner.

35. A Commissioner shall have all the powers of a civil court under the Civil Procedure Code, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects; and a Commissioner shall be deemed to be a civil court for all the purposes of section 135 and Chapter XXXII of the Code of Criminal Procedure Act.

Appearance of parties.

36. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by a representative authorized in writing by such person and approved -by the Commissioner.

37. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be signed by the Commissioner and shall form part of the record:

Method of recording evidence.

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made from his dictation and shall sign the same, and such memorandum shall form part of the record ;

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

38. All costs incidental to any proceedings before a Commissioner shall, subject to regulations made under this Ordinance, be in the discretion of the Commissioner.

Costs.

39. A Commissioner may, if he thinks fit, submit any question of law for the opinion of the Court of Appeal, and, if he does so, he shall decide that question in conformity with such opinion.

Submission of question of law for opinion of Court of Appeal.

40. No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Ordinance required to be settled, decided or dealt with by a Commissioner or, except as provided in section 41 (2), to enforce any liability incurred under this Ordinance.

Civil court has no jurisdiction over matters required to be dealt with by Commissioner. [§8,31 of 1957.]

41. (1) The Commissioner may recover any sum or amount due from or payable by any person under this Ordinance whether under an agreement or in terms of an award for the payment of compensation or otherwise, (including any sum payable by way of costs), as if it were a fine imposed by a Magistrate upon such person, and for the purposes of such recovery shall have all the powers conferred upon a Magistrate for the recovery of fines imposed by him.

Recovery of amounts due.

(2) If any sum referred to in subsection (1) cannot be recovered in the manner specified in that subsection within six months from the date on which such sum becomes due from the person liable to pay

[§9,3 of 1957.]

it, the Commissioner may make application, where such sum exceeds one thousand five hundred rupees, to the District Court or, where such sum does not exceed one thousand five hundred rupees, to the Primary Court, within whose jurisdiction such person resides, for the recovery of such sum by the seizure and sale of the immovable property of such person, and, upon such application being made, the court shall issue to the Fiscal a writ for the recovery of such sum by the seizure and sale of such immovable property. The provisions of the Civil Procedure Code relating to the seizure and sale of immovable property by the Fiscal in execution of a writ issued by a court and to the making and adjudication of claims in respect of immovable property seized by the Fiscal shall apply to the seizure and sale of immovable property for the recovery of the sum specified in the Commissioner's application and to the making and adjudication of claims in respect of immovable property seized for the recovery of such sum. For the purpose of the application of such provisions the sum so specified shall be deemed to be due on a decree entered by the court and the Commissioner shall be deemed to be the judgment-creditor and the person liable to pay such sum shall be deemed to be the judgment-debtor.

PART VIII

REGISTRATION OF AGREEMENTS

Memorandum of agreement to be sent to Commissioner.

42. Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

- (b) the Commissioner may at any time rectify the register;

- (c) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

43. Where a memorandum of any agreement, the registration of which is required by section 42, is not sent to the Commissioner as required by that section, the employer shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to pay a fine not exceeding one thousand rupees, and shall also be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Ordinance, and notwithstanding anything contained in the proviso to subsection (1) of section 6, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Effect of failure to send memorandum of agreement to Commissioner, [§ 10, 31 of 1957.]

44. The Commissioner may, within six months after the registration of any memorandum of agreement referred to in section 42, order that the registration shall be cancelled if it is proved to his satisfaction that the agreement has been obtained by fraud or undue influence or other improper means, and may make such order, including an order as to any sum or amount already paid under the agreement, and an order for the registration of a new agreement, as he thinks just in the circumstances.

Cancellation of registration of memorandum.

PART IX

INSURANCE

Licence to undertake insurance for the purposes of the Ordinance.

45. (1) It shall be lawful for the Commissioner on payment to him of the prescribed fees, to issue a licence to any person to undertake insurance against liabilities to workmen which may be incurred by employers under this Ordinance, if it is shown to his satisfaction, after such inquiry as he may think fit to make, that such person is financially able to undertake such insurance.

(2) Every person who undertakes any such insurance without being licensed for that purpose under subsection (1), and every employer who insures against any such liability with a person who has not been licensed under that subsection, shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees.

(3) In this section, " person " includes the agent of a person who undertakes to insure an employer against his liability to pay compensation under this Ordinance.

(4) No prosecution shall be entered against any person for a breach of the provisions of this section except on the complaint of the Commissioner or with his written sanction.

Commissioner empowered to inspect accounts of licensee.

46. Every person licensed under section 45 shall produce for the inspection of the Commissioner at such times as the Commissioner may require, all the accounts of the insurance business which he undertakes for the purposes of this Ordinance, and in default of so doing shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable for each offence to a fine not exceeding one hundred rupees.

Suspension or cancellation of licence.

47. (1) It shall be lawful for the Commissioner to suspend or cancel any licence issued to any person under section 45—

(a) if he is satisfied that such person is no longer financially able to undertake

insurance against liabilities which may be "incurred by employers under this Ordinance; or

(b) if such person has been guilty of fraud, or has made undue delay in the payment or non-payment of claims arising out of such insurance; or

(c) if such person has been convicted under section 46.

(2) An order made under subsection (1) for the suspension or cancellation of a licence shall be subject to an appeal to the Court of Appeal in the manner hereinafter provided.

PART X

APPEALS

48. (1) An appeal on a point of law shall lie to the Court of Appeal against any order made by the Commissioner.

(2) No person shall appeal against an order made by the Commissioner unless such person is a party aggrieved by the order against which he appeals.

(3) For the purpose of disposing of any appeal on a point of law, the Court of Appeal may vary, modify or reverse the finding of the Commissioner on any question of fact.

(4) An employer shall not be entitled to appeal on a point of law against an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or against an order disallowing a claim in full or in part for a lump sum unless the petition of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(5) No appeal shall lie in any case in which the parties have agreed in writing to abide by the decision of the Commissioner or in which the order of the Commissioner gives effect to an agreement so made by the parties.

[§11, 31 of 1957.]

(6) Every petition of appeal shall be accompanied by a duplicate thereof, and the Registrar of the Court of Appeal shall transmit such duplicate to the Commissioner.

Time-limit for appeals.

49. (1) Every petition of appeal shall bear uncanceled stamps to the value of five rupees and shall be filed in the Court of Appeal within a period of thirty days reckoned from the date of the order against which the appeal is preferred.

(2) In computing the time within which an appeal must be preferred the day on which the order appealed against was made shall be included, but all public holidays shall be excluded.

Costs of appeal.

50. The Court of Appeal shall have power in all appeals under this Part to award such costs to be paid by or to the parties thereto as the court may consider just:

Provided that in no case shall an order for costs be made against the Commissioner.

Procedure in appeal.

51. Subject to the provisions of this Part, the provisions of Chapter XXVIII of the Code of Criminal Procedure Act, relating to appeals from Magistrates' Courts, shall apply *mutatis mutandis*, in regard to all matters connected with the hearing and disposal of an appeal preferred under section 48 and, for such purpose, the order of the Commissioner shall be deemed to be the order of a court.

Hearing of submission on question of law.

52. The Court of Appeal may hear the Commissioner or any party concerned, in person or by counsel, when any question of law is submitted for opinion under section 39.

Withholding of certain payments pending decision of appeal.

53. Where an employer prefers an appeal on a point of law against an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or against an order disallowing a claim in full or in part for a lump sum, the Commissioner may, and if so directed by the Court of Appeal shall, pending the decision of the appeal, withhold payment of any sum deposited with him:

Provided that the Commissioner may distribute, in such manner as he may think fit, out of any sum in deposit with him, a sum not exceeding one-tenth of the sum payable under his order, or fifty rupees, whichever is less, among persons entitled under his order to receive compensation who, in his opinion, are unable to support themselves, and in the event of the appeal being successful any sum so paid by the Commissioner to any person shall be deemed to be a debt due from that person to the employer and may be sued for and recovered by the employer in a civil court of competent jurisdiction.

PART XI

REGULATIONS

Regulations.

54. (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, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 8 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under subsection (1) of section 21 ;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Ordinance and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases ;

- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of moneys so invested from one Commissioner to another;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same ;
- (i) for regulating the scales of costs which may be allowed in proceedings and appeals under this Ordinance ;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Ordinance;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them;
- (l) for prescribing the classes of employers who shall maintain notice-books and the form of such notice-books;
- (m) for prescribing the form of statement to be submitted by employers under section 20;
- (n) all matters stated or required in this Ordinance to be prescribed ; and
- (o) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

substitute a new Schedule for any Schedule herein enacted:

Provided that the provisions of Schedules II and III shall not be so modified, added to, altered or rescinded nor shall any new Schedule be substituted for either of those Schedules except after notification published in the Gazette declaring the intention of the Minister so to effect such modification, addition, alteration, rescission or substitution, as the case may be, at a date not earlier than three months from the date of the first publication of such notification in the Gazette.

(2) For the purpose of the application of the provisions of any Schedule at any particular time, a reference in this Ordinance to any Schedule shall be construed as a reference to the provisions of that Schedule which are in force at that time.

56. (1) No regulations shall have effect unless it has been approved by Parliament, Notification of such approval shall be published in the Gazette. Approval of regulations.

(2) Every regulation shall, upon the publication of the approval of that regulation as provided for in subsection (1), be as valid and effectual as if it were herein enacted.

PART XII

MISCELLANEOUS

57. (1) Where a workman has been injured as a result of an accident occurring on the business premises of his employer or arising out of and in the course of his employment, and either dies within a period of seven consecutive days next succeeding that on which the accident occurred or absents himself from work for that period, his employer shall report the occurrence and the particulars of such accident to the Commissioner in the prescribed form within a period of fourteen days reckoned from the date on which the accident occurred. Employer to report to Commissioner accidents to workmen in certain cases, and to send annual returns.

(2) Every employer shall before the prescribed date in every year send to the Commissioner a correct return in the prescribed form specifying—

Amendment of Schedules by regulation.

55. (1) The Minister may, by regulation modify, add to, alter or rescind any Schedule or part of any Schedule and may

- (a) the injuries in respect of which compensation has been paid by him or by any insurer with whom he has entered into a contract in respect of any liability under this Ordinance during the year preceding that in which the return is made; and
- (b) the amount of such compensation; and
- (c) such other particulars in respect of such compensation as the Commissioner may require:

Provided that any further particulars required by the Commissioner under paragraph (c) of this subsection may be furnished after the prescribed date and within such period as the Commissioner may appoint.

(3) Every employer who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding fifty rupees:

Provided that not employer shall be guilty of a breach of subsection (1) if he proves that he had no knowledge of the accident within the period of fourteen days mentioned in that subsection.

58. Save as provided by this Ordinance, no lump or half-monthly payment payable under this Ordinance shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Compensation not to be assigned, attached or charged.

59. Any contract or agreement whether made before or after the commencement of this Ordinance whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Ordinance.

Contracting-out.

60. Nothing in this Ordinance contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a civil court an action for damages in respect of the injury against the employer or any other person; and no action for damages shall be maintainable by a workman in any court of law in respect of any injury—

Injured workman must elect between common law and statutory remedy.

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if he has agreed with his employer to accept compensation in respect of the injury in accordance with the provisions of this Ordinance.

SCHEDULE I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

[Section 2 (1).]

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

Note.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II

[Section 2(1).] LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF SECTION 2 (i), ARE INCLUDED IN THE DEFINITION OF " WORKMAN " IN THAT SECTION

Subject to the provisions of section 2, the following persons are workmen within the meaning of subsection (1) of that section, that is to say, any person who is—

1. employed, otherwise than in a clerical capacity, in connexion with the operation or maintenance of any vehicle which is propelled by steam or other mechanical power or by electricity and is used for the carriage or conveyance of passengers or goods for hire, or for industrial or commercial purposes ; or

2. employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, the making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, for transport, or for sale, of any article or part of an article, and wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed in any such process; or

[§ 12, 31 of 1957.]

3. employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any process for, or incidental to, the making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, for transport, or for sale, of any article or part of an article or in any kind of work whatsoever incidental to or connected with that process or with the article so made, altered, repaired, ornamented, finished or adapted by that process; or

4. employed, in any mine, in mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground:

Provided that any excavation in which on no day of the preceding twelve months more than ten persons have been employed or explosives have been used, and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or

5. employed as the master of a registered ship or as a seaman; or

6. employed for the purpose of loading, unloading, fuelling, victualling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits as defined under section 2 of the Masters Attendant Ordinance, or any port in Sri Lanka, of goods which have been discharged from or are to be loaded into any vessel; or

7. employed in the construction, repair, maintenance or demolition of—

[§ 12, 31 of 1957.]

(a) any building; or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(c) any road, bridge, or tunnel; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

8. employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same; or

9. employed in the construction, repair, inspection, maintenance or demolition of any underground sewer; or

10. employed in the service of any fire brigade; or

11. employed in any occupation involving blasting operations; or

12. employed in the making of any excavation in which on any one day of the preceding twelve months more than ten persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

13. employed in the operation of any ferry boat capable of carrying more than ten persons; or

14. employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cacao, cardamoms, cinchona, coconuts, coffee, rubber or tea and on which on any one day in the preceding twelve months ten or more persons have been so employed ; or

15. employed, otherwise than in a clerical capacity, in the supplying, generating or transforming of electrical energy or in the generating or supplying of gas; or

16. employed on any boat, launch or vessel which ordinarily plies within the limits of any harbour of Sri Lanka or on any canal, river, lake or other inland navigable water and is propelled wholly or in part by steam or other mechanical power or by electricity; or

17. employed, otherwise than in a clerical capacity, in the Railway Department; or

18. employed, otherwise than in a clerical capacity, in the construction, working, repair, maintenance or demolition of any aerial ropeway, canal or pipe-line; or

19. employed in the training, keeping or working of elephants, race-horses or wild animals; or

20. employed as a diver; or

21. employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

22. employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months five or more persons have been so employed ; or

23. employed in the tapping or coupling of palm trees, or the plucking of coconuts, or the felling or logging of trees, or the clearing of jungle, or the transport of timber by inland water-ways, or the control or extinguishing of forest fires, or any other work incidental to or connected with any of the operations enumerated in this clause; or

24. employed in operations for the catching or hunting of elephants or other wild animals; or

25. employed in the handling or transport of goods in or within the precincts of—

(a) a warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed; or

(b) any market or fair in which on any one day of the preceding twelve months ten or more persons have been so employed; or

26. employed in any occupation involving the handling or the manipulation of radio or X-ray apparatus, or contact with radio-active substances; or

27. employed as an inspector, mail guard, sorter or van peon in the mail service of the Railway Department; or

28. employed in a lighthouse; or

29. employed in any occupation ordinarily involving outdoor work; or

[§ 12, 31 of 1957.]

30. employed in the operation or maintenance of any lift, crane, tractor or excavator; or

31. employed in the salvaging of wrecks; or

32. employed in operations connected with electrical illuminations; or

33. employed in scavenging or conservancy or in any work connected with, or incidental to, scavenging or conservancy ; or

34. employed in any park or in any work connected with, or incidental to, the maintenance thereof; or

35. employed in any radio rediffusion service; or

[§ 12, 31 of 1957.]

36. employed as a carter; or

37. employed in, or in connexion with, the catching of fish; or

38. employed, otherwise than in a clerical capacity, on any premises wherein the business of maintaining or repairing any machinery or vehicles is carried on; or

39. employed as a performer in any circus or acrobatic show; or

40. employed in a meat stall; or

41. employed in the transport of fish; or

42. employed in a petrol depot.

Explanation.—In this Schedule, the expression " the preceding twelve months " relates, in any particular case, to the period of twelve months ending with the day on which the accident in that case occurred.

SCHEDULE III

OCCUPATIONAL DISEASES

PART A

[Section 4.]
[§ 13, 31 of
1957.]

Description of Occupational Disease	Description of Process
Anthrax infection	Any employment involving— (a) work in connexion with animals infected with anthrax; (b) handling of animal carcasses or parts thereof, including hides, hoofs and horns; and. (c) loading and un-loading or transport of merchandise.
Compressed air illness or its sequelae	Any process carried on in compressed air
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.

PART B

Description of Occupational Disease	Description of Process
Arsenical poisoning or its sequelae	Any process involving the production, liberation or utilization of arsenic or its compounds.
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium or their preparations.
Poisoning by lead, its alloys or compounds and their sequelae.	Handling of ore containing lead, including fine shot in zinc factories. Casting of old zinc and lead in ingots. Manufacture of articles made of cast lead or of lead alloys. Employment in the polygraphic industries. Manufacture of lead compounds. Manufacture and repair of electric accumulators. Preparation and use of enamels containing lead. Polishing by means of lead files or putty powder with a lead content. All painting operations involving the preparation and manipulation of coating substances, cement or colouring substances containing lead pigments.
Poisoning by mercury its amalgams and compounds and their sequelae	Handling of mercury ore. Manufacture of mercury compounds. Manufacture of measuring and laboratory apparatus. Preparation of raw material for the hat-making industry. Hot gilding. Use of mercury pumps in the manufacture of incandescent lamps. Manufacture of fulminate of mercury primers.
Pathological manifestations due to— (a) radium and other radio active substances; (b) X-rays	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae of such poisoning	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Poisoning by nitro or amido derivatives of benzene and its homologues or the sequelae of such poisoning	Handling any nitro or amido derivatives of benzene or any of its homologues, or any process in the manufacture or involving the use thereof
Poisoning by the halogen derivatives of hydro-carbons of the aliphatic series	Any process involving the production, liberation or utilization of halogen derivatives of hydro-carbons of the aliphatic series
Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances

WORKMEN'S COMPENSATION

[Cap. 158

SCHEDULE IV

[Section 6.]
[§ 3,4 of 1966.]

COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured		Amount of compensation for—		Half-monthly pension AS consequence, in case of temporary disability of adult	
		Death of adult	Permanent total disablement of adult		
(1)		(2)	(3)	(4)	
More than— Rs.	But not more than— Rs.	Rs.	Rs.	Rs.	
0	..	30	1,800	2,100	15 0
30	..	40	2,450	2,800	1750
40	..	50	2,800	3,200	20 0
50	..	60	3,080	3,520	22 0
60	..	70	3,360	3,840	24 0
70	..	80	3,780	4,320	27 0
80	..	90	4,200	4,800	30 0
90	..	100	4,550	5,200	3250
100	..	120	4,900	5,600	35 0
120	..	140	5,600	6,400	40 0
140	..	160	6,300	7,200	45 0
160	..	180	7,000	8,000	50 0
180	..	200	7,560	8,640	54 0
200	..	250	8,680	9,920	62 0
250	..	300	9,450	10,800	6750
300	..	400	11,200	12,800	80 0
400	..	500	12,900	14,750	92 0

CHAPTER 277

WATER HYACINTH

Ordinance No. 4 of 1909. AN ORDINANCE TO MAKE PROVISION TO PREVENT THE INTRODUCTION INTO, AND DISSEMINATION IN, SRI LANKA OF THE PLANT KNOWN AS THE WATER HYACINTH.

[20 th March, 1909.]

Short title. **1.** This Ordinance may be cited as the Water Hyacinth Ordinance. hyacinth which may be found growing in any such place as aforesaid,

Interpretation. **2.** In this Ordinance the expression " the water hyacinth " means the plant botanically known as *Eichhornia crassipes*, and includes the seed and every part of the plant. shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees.

Prohibition of importation or possession of water hyacinth. **3.** It shall be unlawful for any person— **6.** It shall be lawful for the principal officer of customs at any port at which any water hyacinth may be landed to destroy the same, and no person shall be entitled to compensation for any water hyacinth so destroyed. Power of customs officers to destroy plant on importation.

(a) to import the water hyacinth into Sri Lanka; or

(b) to possess or keep the water hyacinth, or allow the same to grow in or on any place belonging to him or under his control or management.

Duty of landowners to destroy plant. **4.** Where the water hyacinth is growing in or on any place, it shall be the duty of the person to whom such place belongs, or who has the control or management thereof, forthwith to cause the same to be completely and effectually destroyed by fire. **7.** (1) It shall be lawful for the Minister by Order to declare that the provisions of this Ordinance— Power to extend certain provisions to other noxious weeds or plants.

(a) prohibiting the importation of the water hyacinth;

(b) imposing a penalty on persons importing the said plant;

Penalties. ***5.** Any person who— (c) empowering customs officers to destroy the said plant on importation, shall extend to any noxious weed or plant specified in the Order and to the seed or any part of such plant.

(a) imports the water hyacinth into Sri Lanka; or

(b) possesses or keeps or allows the same to grow in any place belonging to him or under his control or management; or

(c) fails forthwith to destroy in manner prescribed by section 4 any water

(2) Upon such Order the above-mentioned provisions of this Ordinance shall apply, *mutatis mutandis*, to such weed or plant.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979.07.02.

CHAPTER 569

WILDLIFE PROTECTION SOCIETY

Act
No. 29 of 1968.

AN ACT TO INCORPORATE THE WILDLIFE PROTECTION SOCIETY OF CEYLON.

[22nd June. 1968.]

Short title.

1. This Act may be cited as the Wildlife Protection Society of Ceylon Act,

Corporation, the three previous holders of the office of President and not more than twelve other members of the Corporation to be elected respectively in accordance with the rules in force for the time being of the Corporation.

Incorporation of Wildlife Protection Society of Ceylon.

2. From and after the passing of this Act the President, Vice-Presidents and members of the Committee for the time being of the Wildlife Protection Society of Ceylon and such and so many persons as are now members of the Wildlife Protection Society of Ceylon or shall hereafter be admitted as members of the Corporation hereby constituted, shall be and become a Corporation with continuance for ever under the style and name of the Wildlife Protection Society of Ceylon 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 E. B. Wikramanayake, Esq., Q.C., President, D. B. Ellapola, Esq., and Dr. L. D. C. Austin, Vice-Presidents, T. W. Hoffmann, Esq., Honorary General Secretary, Lalith Senanayake, Esq., Honorary Assistant Secretary, C. P. de Silva, Esq., Honorary Treasurer and C. E. Norris, Esq., Dr. R. L. Spittel, R. S. V. Poulier, Esq., Major A. MacNeil Wilson, A. H. E. Molamure, Esq., Max P. Hemple, Esq., Dr. C. W. A. de Silva, B. S. C. Ratwatte, Esq., Dr. Ranjan Fernando, S. A. Elapata, Esq., K. Sunderampillai, Esq., Selwyn Samarawee, Esq., J. W. Subasinghe, Esq., and Mrs. Jane Sexstone.

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

- (a) to assist and co-operate in the prevention from destruction of wild animals and plants and to encourage the preservation, wherever possible, of Wildlife in Sri Lanka in natural conditions; and
- (b) to promote an interest in the life histories of all forms of animal life and to co-operate with other societies and institutions which have similar aims and objects.

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. Such rules when made may, at a like meeting, be altered, added to, amended or cancelled subject, however, to the requirements of section 7.

Power to make rules.

Management.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation as hereinafter provided, be administered by a Committee of Management consisting of the President, two Vice-Presidents, the Honorary General Secretary, Assistant Secretary or Secretaries and Honorary Treasurer of the

Rules of the Corporation.

6. Subject to the provision in section 5 contained, the rules set forth in the Schedule* shall for all purposes be the rules of the Corporation:

Provided, however, that nothing in the section contained shall be held or construed to prevent the Corporation at all times hereafter from making fresh rules or from altering, amending, adding to or cancelling any of the rules in the Schedule or to be hereafter made by the Corporation.

to the said Corporation for the purposes of this Act.

9. The seal of the Corporation shall not be affixed to any instrument whatever 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 such signing shall be independent of the signing of any person as a witness.

How seal of the Corporation is to be affixed.

Amendment of rules.

7. No rule in the Schedule* nor any rule hereafter passed at a general meeting shall be altered, amended, added to or cancelled except by a vote of two-thirds of the members present at a general meeting of the Corporation provided that such amendment shall have been previously approved by the Committee of Management.

10. 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 any purchase, grant, gift, testamentary disposition or otherwise and all such property shall be held by the Corporation for the purposes of this Act subject to the rules in force for the time being of the said Corporation with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Power of Corporation to hold property.

Debts, liabilities, &c.

8. All debts and liabilities of the said Wildlife Protection Society of Ceylon 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 Wildlife Protection Society of Ceylon shall be paid

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic or 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 280

WATER RESOURCES BOARD

Act
No. 29 of 1964.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A WATER RESOURCES BOARD,
AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR
INCIDENTAL THERETO.

[12 th November, 1964.]

Short title.

1. This Act may be cited as the Water Resources Board Act.

(2) The Minister may at any time, without assigning reason, remove from office any member of the Board.

Establishment
of Water
Resources
Board.

2. (1) There shall be established in accordance with the provisions of this Act a Board which shall be called the Water Resources Board, hereinafter in this Act referred to as " the Board ".

(3) Each member of the Board shall, unless he vacates office earlier, hold office for a term of five years from the date of his appointment and shall be eligible for reappointment:

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

Provided that a person appointed as a member of the Board in succession to any person who has ceased to be a member of the Board before the expiry of his term of office shall, unless he vacates office earlier, hold office for the unexpired part of the term of office of the member whom he succeeds.

Seal of the
Board.

3. (1) The seal of the Board shall be in the custody of the Board, and may be altered in such manner as the Board may determine.

(4) A member of the Board shall be deemed to have vacated office—

(2) The seal of the Board shall not be affixed to any instrument or document except in the presence of the Chairman of the Board who shaU sign such instrument or document in token of his presence.

(a) on sending his resignation in writing to the Minister; or

(b) on his removal from office by the Minister; or

(c) on the expiry of his term of office.

Constitution of
the Board.

4. (1) The Board shall consist of not more than five members appointed by the Minister from persons who appear to the Minister to have had experience and shown capacity in Administration, Engineering, Irrigation, Electricity, Geology, Economics, Law or Hydrology:

(5) 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 appoint any person to act in his place.

Provided that the Minister shall not appoint as such member any person who is an employee of the Government or a member of the Local Government Service or an employee (other than a member of the Local Government Service) of any local authority, or an employee of any public corporation.

5. (1) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

Chairman of
the Board.

(2) If the 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 any other member of the Board to act in his place.

(3) The Chairman of the Board shall preside at every meeting of the Board. In the absence of the Chairman from any meeting of the Board, the members of the Board attending that meeting shall elect from themselves a chairman for that meeting.

Quorum. **6.** The quorum for any meeting of the Board shall be three.

The procedure of the Board. **7.** (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 Act, the Board may regulate its own procedure.

(4) No act or proceeding of the Board 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.

Remuneration of Chairman and other members of the Board. **8.** The Chairman and the other members of the Board shall be entitled to receive such remuneration as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine.

Officers and servants of the Board. **9.** (1) The Board shall have the power to employ such officers and servants as the Board considers necessary:

Provided, however, that the cadre, the grading and classification, and the salary scales, in relation to such officers and servants, shall be such as are approved by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) 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.

(3) 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 any officer in the public service who is temporarily appointed to the staff of the Board, 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.

(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.

(5) At the request of the Board, any member of the Local Government Service or any officer or servant (other than a member of the Local Government Service) of any local authority may, with the consent of such member, officer or servant and the Local Government Service Advisory Board or that authority, 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 the Local Government Service Advisory Board or authority.

(6) Where any person is temporarily appointed to the staff of the Board in pursuance of the provisions of subsection (5), he shall be subject to the same disciplinary control as any other member of such staff.

(7) 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.

* Repealed by Law No. 19 of 1978.

Secretariat to the Board.

10. (1) There shall be a Secretariat to the Board consisting of the officers and servants of the Board.

fisheries, protection of wild life, and control of soil erosion;

(2) The Secretariat to the Board shall carry out the functions of the Board, subject to the general direction and control of the Chairman of the Board.

(iii) the disposal of sewage and industrial wastes;

(iv) afforestation;

(v) the control of salinity; and

(vi) any other like objective;

Expenditure to be charged to Consolidated Fund.

11. The expenditure incurred in the working of the Board and the Secretariat of the Board, including the remuneration of the members and of the officers and servants of the Board, shall be a charge on the Consolidated Fund.

(g) the preparation of comprehensive and integrated plans- for the conservation, utilization, control and development of the water resources of the country;

Duties of the Board.

12. It shall be the duty of the Board to advise the Minister on the following matters, and on any other matter that is referred to the Board for advice by the Minister:—

(h) the co-ordination of the activities of Government Departments, local authorities and public corporations, in regard to surveys of basic data and other investigations relating to river-basin and trans-river-basin development projects, soil classification, and the hydrological, geological and other similar aspects of the use of land ;

(a) the control, regulation and development, including the conservation and utilization, of the water resources of the country;

(i) the analysis of reports based on investigation, statistical surveys, plans and proposals relating to the water resources of the country made by Government Departments, local authorities and public corporations;

(b) the promotion, construction, operation and maintenance of schemes of irrigation, drainage, flood control and hydraulic power;

(c) the promotion of afforestation;

(d) the control of soil erosion;

(j) the preparation of a scheme of priorities in the matter of developing river-basin and trans-river-basin projects;

(e) the prevention of the pollution of rivers, streams, and other watercourses;

(f) the formulation of national policies relating to the control and use of the water resources of the country with the following objectives in view:—

(k) the co-ordination of projects undertaken by Government Departments, local authorities and public corporations relating to the conservation, utilization and development of the subterranean water resources of the country, and the assessment of the possibilities, benefits and economic feasibilities of such projects;

(i) the multi-purpose development and use of water resources ;

(ii) the short-term and long-term provision of water resources for domestic supplies, industrial supplies, hydraulic power, hydro-electric power, irrigation, reclamation of land, flood control, navigation, development of

(l) the conduct of research by Government Departments, local authorities and public corporations on the utilization of water by various agricultural crops ; and

(m) any other suitable measures to be taken by the Government for the proper control and economic use of water.

Board may engage person; as advisers.

13. The Board may, with the prior sanction of the Minister, engage the services of any person or persons to advise the Board on any matter relating to the duties of the Board. The Minister may, with the concurrence of the Minister in charge of the subject of Finance, direct the Board to pay such person or persons such remuneration as the Minister considers reasonable. Such remuneration shall be a charge on the Consolidated Fund.

Inter-Departmental Advisory Committee.

14. (1) There shall be a Committee of persons which shall be called the "Inter-Departmental Advisory Committee to the Water Resources Board", and hereinafter referred to as the "Advisory Committee", and consisting of the Secretary to the Ministry, the Head of the Development Division of the Ministry charged with the subject or function of Industries, and the Heads of the following Institutions :—

- (a) Irrigation Department;
- (b) Ceylon Electricity Board ;
- (c) Department of Health;
- (d) Department of Local Government;
- (e) Geological Survey Department;
- (f) Department of Agriculture;
- (g) Department of the Land Commissioner;
- (h) Survey Department;
- (i) Department of Agrarian Services ;
- (j) Department of National Planning;
- (k) Department of Water Supply and Drainage;
- (l) Forest Department;
- (m) Department of Highways ;
- (n) Department of Buildings ;
- (o) Railway Department.

(2) Any Head of a Government Institution referred to in subsection (1) may appoint an officer of his Institution to represent him at any meeting of the Advisory Committee.

(3) It shall be the function of the Advisory Committee to advise the Board on any or all of the matters set out in section 12.

(4) The Secretary to the Ministry shall preside at the meetings of the Advisory Committee ; in the absence of the Secretary to the Ministry from any meeting, the members of the Advisory Committee present at that meeting shall elect one of their number to preside at that meeting.

(5) The Advisory Committee shall be summoned to meet as often as the Secretary to the Ministry considers it necessary. The Secretary to the Ministry shall not be entitled to vote at any meeting of such Committee.

15. (1) The Chairman of the Board or an officer of the Board authorized for the purpose by the Chairman, may by notice require any person to furnish any such information as the Chairman or such officer may consider necessary for the proper discharge of the duties of the Board, and it shall be the duty of the person who receives such notice to comply with the request contained therein before such date as may be specified in such notice, notwithstanding the provisions of any written law which prohibit him from disclosing such information.

Board may call for information.

(2) Any person who—

- (a) without reasonable cause, fails to comply with the requirements of a notice issued under subsection (1) before the time stated in such notice, or
- (b) while complying with the requirements of such notice, furnishes an information which he knows to be incorrect,

shall be guilty of an offence under this Act.

(3) Where a person is prohibited by the provisions of any written law from disclosing any information which he is required to disclose under the provisions of subsection (1), such disclosure by him shall, notwithstanding anything to the contrary in such written law, not be deemed to be a contravention of such written law.

(4) No information furnished by any person to the Board or an officer of the Board in compliance with the requirements of a notice issued under subsection (1), shall be published or communicated, except in the course of the discharge of the duties and functions of the Board, to any other person without the consent in writing of the person who furnished such information. Any contravention of the provisions of this subsection shall be an offence under this Act.

Rules.

16. (1) The Board may make rules for the purpose of carrying out and giving effect to the principles and provisions of this Act and for all matters connected with the functions and duties of the Board.

(2) Every rule made under subsection (1) shall, upon approval by the Minister, be published in the Gazette, and shall have effect from the date of such publication or from such later date as may be specified therein.

Accounts and audit of accounts.

17. (1) The Board shall cause proper accounts to be kept of all the transactions of the Board and shall prepare an annual statement of such accounts 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 year shall be audited by the Auditor-General. The Auditor-General may, for the purposes of assisting him in the audit of such accounts, employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) 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.

(4) The Auditor-General shall transmit his report to the Board.

(5) For the purpose 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.

18. 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 members or officers of the Board with such information within their knowledge as may be required for such purposes.

Powers of the Auditor-General and his assistants.

19. (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. The Minister shall lay a copy of such report before Parliament.

Report of the Board and copies of Auditor-General's report and statement of accounts to be sent to the Minister and laid 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 section 17 (1).

(3) The Minister shall lay copies of the report and statement referred to in subsection (2) before Parliament.

body corporate, or was purporting to act in any such capacity, 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 the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the other circumstances.

21. In this Act, unless the context otherwise requires,—

Punishments for offences.

20. (1) Any person who is guilty of an offence under this Act shall, upon conviction after summary trial before a Magistrate, be liable to a fine of five hundred rupees or to a term of imprisonment of either description not exceeding one month, or to both such fine and imprisonment.

(2) Where an offence under this Act is committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of such

"local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

" Local Government Service" and " member of the Local Government Service " have the same meanings respectively as in the Local Government Service Law;

" public corporation" means any corporation which was or is established with capital entirely or partly provided by the Government.

**YOUNG MEN'S BUDDHIST ASSOCIATION,
DEHIWALA-MOUNT LAVINIA**

CHAPTER 408

**YOUNG MEN'S BUDDHIST ASSOCIATION,
DEHIWALA-MOUNT LAVINIA**

Act No. 34 of 1961. AN ACT TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION, DEHIWALA-MOUNT LAVINIA.

[2nd June. 1961.]

Short title. **1.** This Act may be cited as the Young Men's Buddhist Association, Dehiwala-Mount Lavinia Act.

Incorporation of the Young Men's Buddhist Association, Dehiwala-Mount Lavinia. **2.** From and after the passing of this Act, the President, Vice-Presidents, and members of the Board of Directors for the time being of the Young Men's Buddhist Association, Dehiwala-Mount Lavinia, and such and so many persons as now are members of the said Young Men's Buddhist Association, Dehiwala-Mount Lavinia, 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 Young Men's Buddhist Association, Dehiwala-Mount Lavinia", 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—

- (1) the encouragement of the study and practical observance of Buddhism;
- (2) the propagation of Buddhism;
- (3) the advancement of the social, cultural, and educational welfare of the residents of Dehiwala-Mount Lavinia; and
- (4) the promotion of the moral, intellectual, and physical welfare of the members.

Management. **4.** (1) The affairs of the Corporation shall, subject to the rules in force for the

time being of the Corporation as hereinafter provided, be administered by a Board of Directors consisting of the President, two Vice-Presidents, the Honorary General Secretary, and the Honorary Treasurer respectively of the Corporation, and not less than ten other members, to be elected respectively in accordance with the rules for the time being of the Corporation.

(2) The first Board of Directors shall consist of Dr. D. T. R. Gunawardena, President; Mudaliyar W. Dahanaike, Vice-President; Mr. Simon Wickremasinghe, Vice-President; Mr. J. H. Ratnayake, Honorary General Secretary; Mr. T. Ediriweera, Honorary Treasurer; and Messrs. T. H. S. Amarasekera, A. D. de Alwis, A. G. R. de Silva, P. S. de Silva, P. T. de Silva, B. E. G. C. Fernando, P. G. T. Munidasa, S. de. S. Thenuwara, L. I. Wickremasinghe, and L. H. Wijetunga.

5. The rules set forth in the Schedule* shall for all purposes be the rules of the Corporation:

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, from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules set forth in the Schedule* or which may hereafter be made by the Corporation.

6. No rule in the Schedule*, nor any rule which may hereafter be passed at a general meeting, shall be altered, added to, amended, or cancelled, except by a vote of two-thirds of the members present at a general meeting of the Association, and

Amendment of rules.

* Schedule omitted.—Private enactment.

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DEHIWALA-MOUNT LAVINIA**

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unless such amendment or cancellation shall have been previously approved by the Board of Directors.

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.

Members to be subject to rules.

7. All members of the Corporation shall be subject to the rules in force for the time being of the corporation.

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, 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 said Corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

Debts due by and payable to the Association.

8. All debts and liabilities of the said Young Men's Buddhist Association, Dehiwala-Mount Lavinia, 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 Young Men's Buddhist Association, Dehiwala-Mount Lavinia, shall be paid to the said Corporation for the purposes of this Act.

11. 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.

How the seal of the Corporation is to be affixed.

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 Board of Directors, who

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YOUNG MEN'S BUDDHIST ASSOCIATION, MAHIYANGANA

Act No. 40 of 1980. AN ACT TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION, MAHIYANGANA

[10th October, 1980.]

Short title. **1.** This Act may be cited as the Young Men's Buddhist Association, Mahiyangana (Incorporation) Act.

Incorporation of the Young Men's Buddhist Association, Mahiyangana. **2.** From and after the date of the commencement of this Act, the President, Vice-Presidents and members of the Board of Management for the time being of the Young Men's Buddhist Association, Mahiyangana (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 body corporate (hereinafter referred to as "the Corporation") with perpetual succession under the name and style of, "The Young Men's Buddhist Association, Mahiyangana" 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 its pleasure.

General objects of the Corporation. **3.** The general objects for which the Corporation is constituted are hereby declared to be—

- (a) to study, follow, promote and propagate the principles of Buddhism;
- (b) to make it possible for Buddhists to live according to the teachings of Buddha;
- (c) to promote unity and co-operation among Buddhists;
- (d) to advance the physical, spiritual, cultural and social welfare of its members;
- (e) to achieve, safeguard and promote the rights of Buddhists;

(f) to engage in general and social welfare activities;

(g) to promote unity and understanding with other denominations and communities.

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, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation. General power of the Corporation.

5. (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— Board of Management

(a) the office-bearers of the Corporation, namely—

(i) the President who shall be elected in accordance with the rules of the Corporation;

(ii) two ex officio Vice-Presidents who shall be the Assistant Government Agents of Mahiyangana and Ridimaliyadde Divisions, respectively:

Provided, however, that if any of the aforesaid Assistant Government Agents, is a non-Buddhist the next senior Buddhist officer of the

Division shall be the Vice-President until a Buddhist officer is appointed to the office of the Assistant Government Agent of that Division;

(iii) the Secretary, the Assistant Secretary and the Treasurer who shall be elected in accordance with the rules of the Corporation; and

(b) nine members of the Corporation who shall be elected to the Board in accordance with the rules of the Corporation.

(2) The first Board of Management of the Corporation shall be the office-bearers and the other members of the Board of Management of the Association holding office on the date of commencement of this Act.

Rules of the Corporation.

6. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members, to make rules for the 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 the Corporation and the accomplishment of its objects. Such rules when made may, at like meeting, be altered, added to, amended, or revoked.

(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 revoked, except by a vote of two-thirds of the members present and voting at a general meeting of the Corporation.

(3) The rules of the Association in force on the date of the commencement of this Act shall be deemed to be the rules of the Corporation made under this section.

(4) The members of the Corporation shall be subject to the rules of the Corporation.

7. 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 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.

Debts due by and payable to the Association.

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. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the either the President or a Vice-President and 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.

Seal of the Corporation.

10. 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.

CHAPTER 411

YOUNG MEN'S BUDDHIST ASSOCIATION, MATARA

Act
No. 20 of 1970.

AN ACT TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION, MATARA.

[24th March, 1970.]

Short title. **1.** This Act may be cited as the Young Men's Buddhist Association, Matara, Act.

Incorporation. **2.** From and after the passing of this Act, the President, Vice-Presidents, and members of the Board of Management for the time being of the Young Men's Buddhist Association, Matara, and such and so many persons as now are members of the Young Men's Buddhist Association, Matara, 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 Young Men's Buddhist Association, Matara", 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.

Objects. **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 unity and co-operation among Buddhists; and
- (d) the advancement of the moral, cultural, physical and social welfare of members.

Rules. **4.** (1) The rules set forth 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

* Schedule omitted.— Private enactment.

to prevent the corporation at all times hereafter, at any 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 may hereafter be made by the corporation.

(2) No rule in the Schedule*, nor any rule which may hereafter be passed at a general meeting, shall be altered, added to, amended, or cancelled except on a special resolution of which not less than twenty-eight days' notice shall have been given, and which resolution shall have been passed by a majority of not less than two-thirds of the members present and voting at a special General Meeting duly convened for the purpose.

5. All debts and liabilities of the said Young Men's Buddhist Association, Matara, 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 said corporation for the purposes of this Act. Debts, &c.

6. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of at least 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. Seal of corporation.

7. The corporation shall be 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, Corporation to hold property, &c.

***YOUNG MEN'S BUDDHIST ASSOCIATION, MATARA* [Cap. 411**

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 said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

8. 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 Republic and others.

CHAPTER 412

YOUNG MEN'S BUDDHIST ASSOCIATION, MAGGONA

Law
No. 11 of 1974.

A LAW TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION, MAGGONA.

[18th April. 1974.]

- Short title. **1.** This Law may be cited as the Young Men's Buddhist Association, Maggona, Law.
- incorporation. **2.** From and after the date of commencement of this Law, the President, Vice-Presidents, and members of the Board of Management for the time being of the Young Men's Buddhist Association, Maggona, and such and so many persons as now are members of the said Young Men's Buddhist Association, Maggona, 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 Young Men's Buddhist Association, Maggona", and by that name shall have perpetual succession 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.
- Objects. **3.** The general objects for which the corporation is constituted are hereby declared to be—
- (a) the advancement of mutual love, morality and unity among Buddhists; the common welfare of Buddhists;
 - (b) the propagation of Buddhism; the advancement of Buddhist and national education; the protection of the interests of Buddhism;
 - (c) the adoption of ways and means whereby Buddhists are made more mindful of Buddhist doctrine; the rendering of assistance to Buddhist activities.
- Rules. **4.** (1) The rules set forth in the Schedule* shall for all purposes be the rules of the corporation:
- Provided that the corporation may at any duly constituted general meeting, make fresh rules, or alter, amend or add to or cancel any of the rules which are set forth in the Schedule* or which may be made hereafter by the corporation.
- (2) No fresh rule shall be made, nor shall any rule which is in the Schedule* or which shall have been hereafter made be altered, added to, amended or cancelled, except on a special resolution of which not less than twenty-eight days' notice shall have been given, and which resolution shall have been passed by a majority of not less than two-thirds of the members present and voting at a general meeting specially convened for the purpose.
- Debts, &c. **5.** All debts and liabilities of the said Young Men's Buddhist Association, Maggona, existing at the time of the coming into operation of this Law shall be payable by the corporation, and all debts due to and all subscriptions and contributions payable to the said Association shall be payable to the said corporation.
- Seal of the corporation. **6.** The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of at least the President of the corporation and either its Secretary or its 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.

* Schedule omitted.— Private enactment.

Corporation to hold property, &c

7. (1) The corporation shall have the right and power to enter into any contract in furtherance of its aims and objects, subject to the rules of the corporation for the time being.

(2) The corporation shall be able and capable in law to take and hold any property, movable and 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 for the time being of the said corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

8. 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.

Saving of rights of the Republic and others.

CHAPTER 410

YOUNG MEN'S BUDDHIST ASSOCIATION, WADDUWA

Act No. 19 of 1970. AN ACT TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION, WADDUWA.

[24th March, 1970.]

Short title. 1. This Act may be cited as the Young Men's Buddhist Association, Wadduwa (Incorporation) Act.

Incorporation 2. From and after the passing of this Act, the President, other office-bearers and members of the Board of Management for the time being of the Young Men's Buddhist Association, Wadduwa, and such and so many persons as now are members of the said Young Men's Buddhist Association, Wadduwa, 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 Young Men's Buddhist Association, Wadduwa" 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.

General objects of the Corporation. 3. The general objects for which the corporation is constituted are hereby

- (a) the study, observance and propagation of Buddhism;
- (b) the promotion of unity and co-operation among Buddhists;
- (c) social and public welfare work;
- (d) the advancement of the physical, intellectual and social welfare of the members.

Committee of Management and Board of Trustees. 4. (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be administered by a Committee of Management consisting of the President, five Vice-Presidents, four Chairmen of Departmental Committees, three Honorary

Joint Secretaries, the Honorary Treasurer, the Honorary Assistant Treasurer, the General Manager and fifteen other members to be elected in accordance with the rules for the time being of the corporation.

(2) There shall also be a "Board of Trustees" of the corporation constituted with a panel of ten office-bearers from the Committee of Management for the time being as set out under subsection (1) and shall consist of: the President, the Chairman of the Departmental Committees, the Honorary Joint Secretaries, the Honorary Treasurer, and the General Manager, who shall be the guardian and custodian of all property belonging to the corporation subject to the rules in force for the time being of the corporation.

(3) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

5. The Committee of Management and the Board of Trustees holding office on the date of commencement of this Act, shall be the first Committee of Management and the Board of Trustees, respectively, of the corporation. The first Committee of Management, &c.

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 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. Such rules when made, may, at a General meetings.

like meeting, be altered, added to, amended, or cancelled, subject however, to the requirements of section 8.

contributions payable to the said Association shall be paid to the said corporation for the purposes of this Act.

Rules in the Schedule • to be rules of the corporation.

7. Subject to the provisions in the preceding section contained, the rules set forth in the Schedule* hereto shall for all purposes be the rules of the corporation:

10. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of three members of the Board of Trustees of the corporation for the time being constituted under section 4 (2), and subject to the rules in force for the time being of the said 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 to be affixed.

Provided however, that nothing in this section contained shall be held or construed to prevent the corporation at aH times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the corporation.

Procedure for amendment of rules.

8. No rule in the Schedule* hereto, nor any rule hereafter passed at a General Meeting, shall be altered, added to, amended or cancelled except by a vote of two-thirds of the members present at a General Meeting of the corporation, provided that such amendment shall have been previously approved by the Committee of Management.

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 said corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

Debts, &c., due by and payable to the corporation.

9. All the debts and liabilities of the said Young Men's Buddhist Association, Wadduwa, 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

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or 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 the rights of the Republic and others.

• Schedule omitted.— Private enactment.

CHAPTER 462

YOUNG MEN'S MUSLIM ASSOCIATION, MALIGAWATTA

Law
No. 30 of 1974.

A LAW TO INCORPORATE THE YOUNG MEN'S MUSLIM ASSOCIATION, MALIGAWATTA,
COLOMBO-

[27th September. 1974.]

Short title.

1. This Law may be cited as the Young Men's Muslim Association, Maligawatta, Colombo, Law.

(v) to promote any other aims and objects not inconsistent with the aims and objects of the All-Ceylon Young Men's Muslim Association Conference, as the Association may determine from time to time.

Incorporation of the Young Men's Muslim Association, Maligawatta, Colombo.

2. From and after the date of commencement of this Law, the President, Vice-Presidents, and members of the Board of Governors for the time being of the Young Men's Muslim Association, Maligawatta, Colombo, (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 body corporate (hereinafter referred to as "the Corporation") with perpetual succession under the style and name of "The Young Men's Muslim Association, Maligawatta, Colombo.", 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.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation as hereinafter provided, be administered by a Board of Governors consisting of the President, the two Vice-Presidents, the Honorary General Secretary and the Honorary Treasurer and not less than six other members to be elected in accordance with the rules for the time being of the Corporation.

(2) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

General objects
Corporation

3. The general objects for which the Corporation is constituted are hereby declared to be—

- (i) to promote the general aims and objects of the All-Ceylon Young Men's Muslim Association Conference;
- (ii) to foster inter-communal amity;
- (iii) to improve the conditions of the people of Maligawatta socially, educationally and economically;
- (iv) to encourage the practical observance of Islam; and

5. It shall be lawful for the Corporation from time to time at any general meeting of the members and by a majority of the members present and voting, to make rules for the admission, withdrawal or expulsion of members, for the conduct and duties of the Board of Governors and of the various officers, agents and servants of the Corporation, for the procedure to be followed 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 section?.

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* hereto 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 from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* (except Articles 1 and 2 of Chapter I thereof) or any of the rules which may hereafter be made by the Corporation.

Procedure for amendment of rules.

7. No rule in the Schedule* hereto 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 and unless such alteration, addition, amendment or cancellation shall have been previously approved by the Board of Governors.

Debts due by and payable to the Corporation.

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 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.

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 Board of Governors 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.

Procedure for affixing the seal of the Corporation.

10. The Corporation shall be able and capable in law to take and hold any property, movable and 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 for the time being of the said Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

11. 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.

Saving of the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 35

YOUTHFUL OFFENDERS (TRAINING SCHOOLS)

Ordinances
Nos. 28 of 1939,
8 of 1943,
41 of 1944,
42 of 1944.

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF TRAINING SCHOOLS,
FOR THE DETENTION, TRAINING AND REFORMATION OF YOUTHFUL OFFENDERS,
AND FOR PURPOSES CONNECTED THEREWITH.

[22nd January, 1940.]

Short title.

1. This Ordinance may be cited as the Youthful Offenders (Training Schools) Ordinance.

probation order made under the provisions of any other written law relating to the release of offenders on probation,

Establishment of training schools.

2. (1) The Minister may by Order published in the Gazette establish one or more training schools in which youthful offenders may be detained and be given such training and instruction and be subjected to such discipline and moral influences as will conduce to their reformation and to the repression of crime.

and it appears to thfc court—

- (i) that the person is a youthful person; and
- (ii) that by reason of his criminal habits or tendencies or association with persons of bad character, it is expedient that he should be subject to detention under such instruction, training and discipline as would be available in a training school,

Appointment of officers, &c.

3. (1) There may be appointed for every training school a superintendent, who shall, subject to the general direction and control of the Commissioner, be responsible for the management of the school in accordance with the provisions of this Ordinance and of any regulations made thereunder.

the court may, in lieu of making any order which it is empowered to make under the provisions of any other written law, and subject to the provisions of subsection (2), order him to be detained in a training school for a period of three years.

(2) There may be appointed such other officers and servants as may be necessary for the purposes of this Ordinance.

(2) (a) A court, before making an order under subsection (1) shall call for and consider a report from the Commissioner as to the suitability of the case for treatment in a training school and as to the accommodation available in any such school, and shall be satisfied that the character, state of health and mental and physical condition of the offender and the other circumstances of the case are such that the offender is likely to profit by detention in a training school.

Orders for detention in training schools.

4. (1) Where any male person—
- (a) is convicted by the High Court of any offence which, according to the First Schedule to the Code of Criminal Procedure Act, is triable only by the High Court; or
 - (b) is convicted by any court of any offence, and a previous conviction of any offence is proved against him; or
 - (c) is found by any court to have failed to observe any condition of any

(6) The report required under paragraph (a) may be furnished by the Commissioner or by any person authorized by him.

(3) For the purpose of enabling a report under subsection (2) to be furnished in respect of any offender, a court may make

order remanding him, for a period of not less than fourteen and not more than twenty-one days, to custody in such one of the prisons specified in the First Schedule as is nearest to the court.

of his sentence, and whilst detained in, or placed out on licence from, such a school, the provisions of this Ordinance shall apply to him as if he had been originally ordered to be detained in a training school.

Orders in respect of persons detained in approved or certified schools.

5. (1) Where a male person who is convicted of any offence is, at the time of his conviction, detained in an approved or certified school under the provisions of any written law (otherwise than as being a person in need of care or protection), and it appears to the court that he is a youthful person, the court may order him to be detained in a training school for a period of three years.

9. (1) The Minister may, at any time after the expiration of one year from the commencement of any term of detention, if satisfied that there is a reasonable probability that the person detained will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from a training school on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

Release on licence of persons detained in training schools.

(2) Any order made under subsection (1) for the detention of any person in a training school shall supersede the order for the detention of that person in an approved or certified school.

(2) A licence granted to any person under this section shall, subject to the provisions of subsections (3) and (4), be in force until the term for which that person was ordered to be detained has expired.

Warrant of commitment to training school.

6. Where a court makes an order under section 4 or section 5 for the detention of a person in a training school, a warrant of commitment, which shall be substantially in the form set out in the Second Schedule, shall be signed by the court and shall be delivered to the Fiscal of the court.

(3) The Minister may at any time revoke a licence granted to any person under this section, and upon such revocation it shall be the duty of that person to return to the training school and if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

Application of Chapter XXVIII of the Code of Criminal Procedure Act to orders for detention.

7. Every order made under section 4 or section 5, by the High Court or a Magistrate's Court, for the detention of a person in a Training School, shall be deemed to be a conviction, sentence or order or a judgment or final order pronounced by that court within the meaning of section 320 or section 331, as the case may be, of the Code of Criminal Procedure Act; and the provisions of Chapter XXVIII of that Act shall apply accordingly.

(4) Where any person to whom a licence has been granted under this section escapes from or evades the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, that licence shall be forfeited.

Transfer of person from prison to training school.

8. Where the Minister is satisfied that a youthful person, who is undergoing imprisonment in consequence of a sentence passed before or after the date of the commencement of this Ordinance and who has still to undergo imprisonment for a further period of not less than two years, might with advantage be detained in a training school, the Minister may by order authorize the Commissioner to transfer him from prison to a training school and to detain him in such school there to serve the whole or any part of the unexpired residue

(5) The Magistrate's Court of the division in which the training school from which a person has been placed out on licence is situated or in which such a person is found may, on information on oath that the licence has been forfeited under subsection (4) issue a warrant for his arrest, and he shall on arrest be brought before that court, and that court may, if satisfied that the licence has been forfeited, order him to be remitted to a training school and remand him to the custody of the Fiscal of the court to be detained in the nearest prison until he can conveniently be removed to such school.

(6) The time during which a person is absent from a training school under a licence granted under this section shall be treated as part of the term of his detention in the school:

Provided, however, that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time of his detention in the school.

(7) A licence granted under this section shall be in such form and shall contain such conditions as may be prescribed by regulations.

Supervision after term of detention in training schools.

10. (1) Every person ordered to be detained in a training school shall, on the expiration of the period for which he was ordered to be detained, remain for a further period of one year under the supervision of the Minister.

(2) The Minister may by licence discharge from his supervision any person who is under such supervision in accordance with subsection (1), on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(3) The Minister may revoke a licence granted to any person under subsection (2) and by order in the prescribed form recall him to a training school, if he is of opinion that such recall is necessary for the protection and further training of such person, and may detain him in a training school for a further period not exceeding six months:

Provided, however, that—

- (o) every person so recalled shall again be discharged by licence under subsection (2), so soon as the Minister considers such discharge to be expedient; and
- (b) no person so recalled shall be detained in a training school after

the expiration of the period of one year specified in subsection (1).

(4) A licence granted to any person under section 9 before the expiration of his term of detention in a training school shall, on his becoming liable to be under the supervision of the Minister in accordance with subsection (1), continue in force after the date of the expiration of that term, and every such licence shall after that date be deemed to be a licence granted under subsection (2), and the provisions of subsection (3) shall apply accordingly.

(5) The Minister may at any time order that a person under supervision under this section shall cease to be under such supervision.

(6) It shall be the duty of a person who has been recalled to a training school by an order under subsection (3) to return to the school, and, if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

11. Where a person detained in a training school is reported to the Minister by the Commissioner to be incorrigible, or to be exercising a bad influence on other inmates of the school, the Minister in charge of the subject of Justice may, in consultation with the Minister, commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Minister in charge of the subject of Justice may determine, but in no case exceeding such unexpired residue.

Substitution of imprisonment for detention in training school.

12. Where any society or person has undertaken the duty of assisting or supervising persons discharged from a training school either absolutely or on licence, there may be paid to the society or person", as the case may be, out of funds voted by Parliament for the purpose, such sums on such conditions as the Minister may determine towards the expenses of the society or person incurred in connexion with the persons so discharged.

Payments to societies and persons assisting or supervising persons discharged from training schools.

(6) The time during which a person is absent from a training school under a licence granted under this section shall be treated as part of the term of his detention in the school:

Provided, however, that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time of his detention in the school.

(7) A licence granted under this section shall be in such form and shall contain such conditions as may be prescribed by regulations.

Supervision after term of detention in training schools.

10. (1) Every person ordered to be detained in a training school shall, on the expiration of the period for which he was ordered to be detained, remain for a further period of one year under the supervision of the Minister.

(2) The Minister may by licence discharge from his supervision any person who is under such supervision in accordance with subsection (1), on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(3) The Minister may revoke a licence granted to any person under subsection (2) and by order in the prescribed form recall him to a training school, if he is of opinion that such recall is necessary for the protection and further training of such person, and may detain him in a training school for a further period not exceeding six months:

Provided, however, that—

- (o) every person so recalled shall again be discharged by licence under subsection (2), so soon as the Minister considers such discharge to be expedient; and
- (b) no person so recalled shall be detained in a training school after

the expiration of the period of one year specified in subsection (1).

(4) A licence granted to any person under section 9 before the expiration of his term of detention in a training school shall, on his becoming liable to be under the supervision of the Minister in accordance with subsection (1), continue in force after the date of the expiration of that term, and every such licence shall after that date be deemed to be a licence granted under subsection (2), and the provisions of subsection (3) shall apply accordingly.

(5) The Minister may at any time order that a person under supervision under this section shall cease to be under such supervision.

(6) It shall be the duty of a person who has been recalled to a training school by an order under subsection (3) to return to the school, and, if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

11. Where a person detained in a training school is reported to the Minister by the Commissioner to be incorrigible, or to be exercising a bad influence on other inmates of the school, the Minister in charge of the subject of Justice may, in consultation with the Minister, commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Minister in charge of the subject of Justice may determine, but in no case exceeding such unexpired residue.

Substitution of imprisonment for detention in training school.

12. Where any society or person has undertaken the duty of assisting or supervising persons discharged from a training school either absolutely or on licence, there may be paid to the society or person", as the case may be, out of funds voted by Parliament for the purpose, such sums on such conditions as the Minister may determine towards the expenses of the society or person incurred in connexion with the persons so discharged.

Payments to societies and persons assisting or supervising persons discharged from training schools.

Removal from one training school to another.

13. Where a person has been ordered to be detained in any training school, the Commissioner may direct that person to be removed to and detained in any other training school.

Regulations.

14. (1) The Minister may make regulations for the purpose of carrying out 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) the rule and management of training schools;
- (b) the medical examination and the taking of measurements, photographs, fingerprints, footprints or other records, of persons ordered to be detained in training schools, including particulars of the previous history of such persons ;
- (c) the persons, if any, to whom such measurements, photographs, fingerprints, footprints or other records may be sent or supplied ;
- (d) the disposal of the clothing and property of persons ordered to be detained in training schools ;
- (e) the classification, treatment, clothing, training, instruction, employment, discipline and control of persons detained in training schools, and the classes of diet to be provided for such persons;
- (f) the religious instruction of persons detained in training schools ;
- (g) the kind of labour to be exacted from persons detained in training schools, and the manner in which and the times at which such labour may be exacted;
- (h) rewards for good conduct, including the circumstances in which payments may be made to persons detained in training schools ;
- (i) the circumstances in which and the conditions subject to which persons detained in training schools may be permitted to be absent therefrom for short periods, and the removal of such persons to hospitals or mental or leprosy hospitals in cases of sickness, insanity or suspected insanity;
- (j) visits to persons detained in training schools and correspondence or other communication with such persons;
- (k) the specifications and requirements of the several types of cells or wards in training schools ;
- (l) the sanitation of training schools; the health and medical treatment of the persons detained or employed therein, and the functions and duties of medical officers;
- (m) inspections, inquiries and other proceedings by Visitors;
- (n) means of restraint, the patterns or types that may be used and the circumstances and the manner in which they may be used;
- (o) the compulsory or artificial feeding of persons detained in training schools;
- (p) the manner in which any person who is detained in a training school may, if he appeals to the Court of Appeal, be brought to any place at which he is entitled to be present for the purposes of his appeal or to which the Court of Appeal or the Supreme Court or any Judge thereof may order him to be taken for the purpose of the appeal, and the manner in which he is to be kept in custody while absent from the training school for the purpose;

- (q) the custody, pending inquiry or trial, of youthful persons accused of any offence, and the custody of persons remanded under section 4 (3);
- (r) the temporary custody of persons ordered to be detained in training schools, until arrangements can be made for their removal thereto ;
- (s) the supply of money, food, clothing or means of travelling to persons discharged from training schools on licence or otherwise;
- (t) the adaptation, modification or alteration, in such manner as may be necessary for the purpose of its application to training schools, the officers and servants employed therein and the persons detained therein, of any provision of the Prisons Ordinance which is mentioned in the Third Schedule ;
- (u) all matters stated or required by this Ordinance to be prescribed or in respect of which regulations are authorized to be made under this Ordinance.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall upon the notification of such approval in the Gazette be as valid and effectual as if it were herein enacted.

Application of Prisons Ordinance and other written law.

15. (1) (d) The provisions of the Prisons Ordinance which are mentioned in the Third Schedule shall apply to training schools, the officers and servants employed therein and the persons detained therein in like manner as if such schools were prisons established under that Ordinance and as if the persons detained therein were criminal prisoners within the meaning of that Ordinance;

Provided, however, that any such provision may be adapted, modified or altered by regulation in such manner as may be necessary for the purposes of such application, and shall accordingly have effect for such purposes as adapted, modified or altered, and as set out in such regulation.

(b) The provisions of the Third Schedule may be added to or otherwise amended by regulation.

(2) Save as provided in subsection (1), the Prisons Ordinance and the rules made thereunder shall have no application to training schools, the officers and servants employed therein and the persons detained therein; but the provisions of any other written law relating to prisons and prisoners, in so far as such provisions are not inconsistent with any provision of this Ordinance or of any regulation, shall apply in the case of such schools, officers, servants and persons in like manner as if such schools were prisons established under the Prisons Ordinance and as if the persons detained therein were criminal prisoners within the meaning of that Ordinance.

16. In this Ordinance, unless the context otherwise requires—

" Commissioner" means the Commissioner of Prisons;

" court" includes the court of a Municipal Magistrate;

" peace officer " has the same meaning as in the Code of Criminal Procedure Act;

" prescribed" means prescribed by regulation;

" prison" means a prison established under the Prisons Ordinance ;

" prison officer " means any officer of the staff of any prison or of any training school;

" regulation " means a regulation made by the Minister under this Ordinance;

" training school" means a training school for youthful offenders established by the Minister under section 2 •

" youthful person " means a person who has attained the age of sixteen years and who has not attained the age of

22 years ; and " youthful offender " has a corresponding meaning.

FIRST SCHEDULE

[Section 4 (3)]

PRISONS TO WHICH PERSONS MAY BE REMANDED UNDER SECTION 4 (3)

1. Welikada Prison, Colombo.
2. Bogambara Prison, Kandy.
3. Jaffna Prison.

[Section 6.]

SECOND SCHEDULE

FORM OF WARRANT OF COMMITMENT TO A TRAINING SCHOOL

In the High Court of the Republic of Sri Lanka.

(or In the Magistrate's Court of

Case No.....

To the Fiscal of the and to the Superintendent of the Training School at.....

WHEREAS' was on the day of ,19 convicted before the above-named court for that he did on the day of ,19 at with in the jurisdiction of this court2 and thereby committed an offence punishable under3 and was ordered to be detained in the Training School at for a period of three years :

These are therefore to command you, the said Fiscal, to take the said' and him safely to convey to the Training School at / aforesaid and there to deliver him to the Superintendent thereof together with a copy of this warrant certified, under your hand.

And I do hereby command you the Superintendent of the said Training School to receive the said' into your custody in the said Training School and there carry out the aforesaid order of detention into execution.

Given under my hand this , day of 19at

(Signed)
Judge of the High Court
(or Magistrate).

1. Name in full of" accused.
2. State particulars of offence.
3. Specify provision of Penal Code or of other law.

[Section 15.]

THIRD SCHEDULE

PROVISIONS OF THE PRISONS ORDINANCE WHICH ARE MADE APPLICABLE TO TRAINING SCHOOLS

Sections 3, 5,6, (3), 13,20, 23. 35. 36,37,38,39,40,41,44,69,73, 74, 75, 76, 78, 79,81,84,85,86,87,88,89,90,91,92,93,95,96,103, and 104.