



Ceylon Government Gazette

Published by Authority.

No. 6,624 — FRIDAY, MAY 15, 1914.

PART I.—General: Minutes, Proclamations, Appointments, and General Government Notifications.
 PART II.—Legal and Judicial.
 PART III.—Provincial Administration.
 PART IV.—Land Settlement.
 PART V.—Mercantile, Marine, Municipal, Local, &c.

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DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to amend the Law relating to the Administration of Estates.

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An Ordinance to amend the Law relating to the
Administration of Estates.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the administration of estates: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

PART I.
PRELIMINARY.

Short title.

1 This Ordinance shall be cited as "The Administration of Estates Ordinance, No. of 191."

Commencement.

2 This Ordinance shall come into operation on

Definitions.

3 In this Ordinance—

New.

The expression "next of kin" includes all persons capable of succeeding to any share in the estate of the deceased person in question according to the law of inheritance governing the devolution of the estate.

The expression "heir" means a person actually entitled by such law to succeed to any share in the estate.

The expression "court" means the court under whose control the estate in question is being administered.

The expression "intestacy" includes a case in which a will has been lost and its contents are not provable.

The expression "prescribed" means prescribed by the schedule to this Ordinance.

Application.

4 This Ordinance shall apply only in the case of the estates of persons dying after the commencement thereof, and the estates of all persons dying before such commencement shall continue to be administered as if this Ordinance had not been passed.

Jurisdiction.

New.

5 The District Court in whose district any person dying in Ceylon shall have died, or if the place of his death is uncertain, shall have been found dead, shall be the court having jurisdiction for the purpose of the administration of his estate.

Provided that at any time before the grant of probate or letters of administration such court may make an order transferring the administration of the estate to any other District Court, if it is established to its satisfaction that by reason of the deceased having resided, or of the bulk of his property being situated within the district of such other court, the administration of the estate can more conveniently proceed in such other court, and upon such order being made, such other court shall have and exercise jurisdiction accordingly.

Matters of procedure not provided for to be governed by the Civil Procedure Code.

Power of court to dispense with formalities, &c.

New.

6. All matters of procedure in connection with the administration of estates, for which no special provision is made by this Ordinance, shall be governed by the general provisions of the Civil Procedure Code.

7 In the administration of any estate under this Ordinance the court shall have power on such terms as it may direct—

(a) To dispense with any formality required by the Ordinance where the court is satisfied that in the circumstances of the case the formality cannot be complied with except at unreasonable delay, expense, or inconvenience, and that no person interested will be prejudiced by the formality being dispensed with.

(b) To allow the rectification of any error, or the supplying of any accidental omission in any document filed in the course of the administration, or in any order made by the court.

(c) To make all necessary orders for the purpose of doing justice between the persons interested in any matter requiring to be dealt with for the purpose of the administration of the estate, for which no provision is made in this or any other Ordinance.

Forms.

New.

8 The forms prescribed in the schedule to this Ordinance may be used with such modifications as may be necessary to adapt them to the circumstances or may be ordered by the court.

Repeal.
New.

9 Chapter XXXVIII., LIV., and LV. of the Civil Procedure Code are hereby repealed, and references in any other part of the said Code to any section hereby repealed shall be deemed to be a reference to the corresponding section in this Ordinance dealing with the matter in question.

PART II.
GRANT OF PROBATE AND LETTERS OF
ADMINISTRATION.

CHAPTER I.

Vesting of Property on Death.

Property of
person dying in
Ceylon to vest
in District
Court.
P 5 (modified).

10 The property of any person dying in Ceylon shall upon his death vest in the District Court having jurisdiction for the purpose of the administration of the estate, until—

- (a) Probate is granted of any will left by the deceased; or
- (b) Letters of administration are granted in respect of his estate; or
- (c) A certificate of exemption is granted to his next of kin.

Provided that where the estate of any person dying intestate comprises no immovable property, and is less than one thousand rupees in value, the property shall vest directly in the person or persons entitled by inheritance.

Property of
person dying
out of Ceylon to
vest in Supreme
Court until
order under
Courts
Ordinance.

11 The property in Ceylon of any person dying out of Ceylon shall vest in the Supreme Court, until such court shall have made order under section 70 of "The Courts Ordinance, 1880," appointing a District Court to have sole testamentary jurisdiction in respect of the estate; and it shall thereupon vest in such court until probate or letters of administration or a certificate of exemption has been granted as aforesaid.

P 5.
Judges and
officers of
court exempt
from liability.
P 5.

12 No judge of any court, and no other officer thereof, shall be subject to any liability by reason of title to property having vested in such court, or be subject to any proceedings at the instance of any person whomsoever for any official act of commission or omission in respect of such property.

CHAPTER II.

Grant of Letters of Administration.

Application for
letters of
administration
in case of intestacy.
Civil Procedure
Code, section 544.

13 Where any person dies intestate leaving property in Ceylon, any of the next of kin of the deceased, or any other person interested in having the estate administered, may apply to the court having jurisdiction in the matter for a grant of letters of administration.

Conflict of
claims.
Civil Procedure
Code, section
523 (modified).

14 In the event of a conflict of claims to a grant of letters of administration, unless for good cause shown, the court shall otherwise order the claim of a widow or widower shall be preferred to that of any other of the next of kin, and the claim of an heir shall be preferred to that of any other of the next of kin not an heir, and the claim of any of the next of kin shall be preferred to the claim of a creditor.

The fact of any heir or any one of the next of kin being a creditor shall not prejudice his rights as heir or next of kin under this section.

Mode of
application.
Civil Procedure
Code, section
530.

15 (1) Every application for a grant of letters of administration shall be made on petition by way of summary procedure.

(2) The petition shall set forth in numbered paragraphs to the best of the petitioner's knowledge all facts relevant to the application, and particularly—

- (a) The death of the deceased;
- (b) The absence of a will;
- (c) The heirs of the deceased;
- (d) The character on which the petitioner claims;
- (e) The facts which justify his doing so.

(3) The application shall be supported by sufficient evidence, either in the shape of affidavits of facts or of oral testimony, to afford *prima facie* proof of the material allegations in the petition.

(4) The next of kin of the deceased, or if the petitioner is himself one of the next of kin, the rest of the next of kin, shall be named as respondents to the petition.

Order *nisi*.
Civil Procedure
Code, section
531.

Order *nisi* to be
advertised.
Civil Procedure
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532.

Power of
objector to file
caveat.
Civil Procedure
Code, section
535.

At final hearing
on objection
court shall
frame issues.
Civil Procedure
Code, section
533.

Civil Procedure
Code, section
386.

Confirmation or
discharge of
order *nisi*.
Civil Procedure
Code, section
534.

Grant may be
made to
respondent.

Dismissal of
petition, no bar
to renewal.
Civil Procedure
Code, section
534.

Sealing in
Ceylon of
letters of
administration
granted in
United
Kingdom.
New.

16 Upon the application for grant of administration being made, if the court is of opinion that the material allegations of the petition are proved, it shall make an order *nisi* declaring the petitioner's status accordingly and making the grant prayed for, which order shall be served upon the respondent and upon such other persons as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

17 The court shall direct the order *nisi*, whether a respondent is named in the petition or not, to be advertised in the "Gazette," and twice in a local paper, before the day of final hearing; such paper to be selected by the court with the object that notice of the order shall reach all persons interested in the administration of the deceased's property.

Provided that the court may in its discretion direct such other mode of publication in lieu of such advertisement as to it seems sufficient.

18 At any time after the filing of a petition in a District Court asking that the grant of administration of a deceased person's property be made, and before the final hearing of the petition, it shall be competent to any person interested in the said deceased person's property or estate, though not a respondent on the face of the petition, to intervene by filing in the same court a *caveat* against the allowing of the petitioner's claim or a notice of opposition thereto, and any order *nisi* which may be made upon such petition shall be served upon such objector as if he had been originally named a respondent in the petition.

19 (1) If on the day appointed for final hearing, or on the day to which it may have been duly adjourned, the respondent or any person upon whom the order *nisi* has been directed to be served, or any person then appearing to be interested in the administration of the deceased's property, satisfies the court that there are grounds of objection to the application such as ought to be tried on oral evidence, then the court shall frame the issues which appear to arise between the parties, and shall direct them to be tried on a day to be then appointed.

(2) On the day to which the matter is so adjourned, the issues so framed shall be tried, as nearly as may be, in conformity with the rules prescribed by the Civil Procedure Code for the trial of issues in a regular action.

20 (1) If at the final hearing, or on the determination of the issues thus framed, it shall appear to the court that the *prima facie* proof of the material allegations of the petition has not been rebutted, then the order *nisi* shall be made absolute, and grant of administration shall issue accordingly, subject to the conditions hereinafter prescribed.

(2) If, on the other hand, it shall then appear to the court that the *prima facie* proof of any material allegations in the petition has been rebutted, the order *nisi* shall be discharged, and the petition dismissed.

21 In the event of the respondent or objector having at such hearing or trial of issues established his right to have grant of administration of the deceased's estate issued to him instead of to the petitioner, then the court shall further make an order to that effect in his favour.

22 The dismissal of the petition shall not be a bar to a renewal of the application by the petitioner as long as grant of letters of administration of the estate shall not have been made, either on the occasion of this application or subsequently thereto, to some person other than the petitioner.

23 (1) Notwithstanding anything contained in this chapter, where a court of probate in the United Kingdom has granted letters of administration in respect of the estate of a deceased person, the letters so granted may, on being produced to and a copy thereof deposited with the court, be sealed with the seal of the court, and thereupon shall be of the like force and effect, and have the same operation in Ceylon as if granted by the court.

(2) Provided that the court shall, before sealing letters of administration under this section, be satisfied—

- (a) That duty has been paid in respect of so much (if any) of the estate as is liable to duty in Ceylon; and
- (b) That security has been given in a sum sufficient in amount to cover the property (if any) in Ceylon to which the letters of administration relate;

and may require such evidence, if any, as it thinks fit as to the domicile of the deceased person.

(3) The court may also, if it thinks fit, on the application of any creditor, require before sealing that adequate security be given for the payment of debts due from the estate to creditors residing in Ceylon.

(4) For the purposes of this section a duplicate of any letters of administration sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

CHAPTER III.

Grant of Probate.

On death of testator leaving will in Ceylon, will to be deposited in District Court. Civil Procedure Code, section 516.

24 (1) When any person shall die leaving a will in Ceylon, the person in whose keeping or custody it shall have been deposited, or who shall find such will after the testator's death, shall as soon as reasonably may be after the testator's death produce the same to the District Court of the district in which such depository or finder resides, or to the District Court of the district in which the testator shall have died.

(2) Any person so producing a will shall make oath or affirmation, or produce an affidavit in the prescribed form verifying the time and place of the death, and stating (if such is the fact) that the testator has left property within the jurisdiction of that or any other, and in that event what, court, and the nature and value of such property; or, if such is the fact, that such testator has left no property in Ceylon.

(3) The will so produced shall be numbered and initialed by the secretary, and deposited and kept in the recordroom of the District Court.

Penalty on neglect. Civil Procedure Code, section 517.

25 Any person liable to produce any will to any court under the provisions of the last preceding section who shall wilfully omit to produce such will, or to furnish the information thereby required, shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees.

Application for probate. Civil Procedure Code, section 518.

26 When any person shall die leaving a will under or by virtue of which any property in Ceylon is in any way affected, any person appointed executor therein may apply to the District Court having jurisdiction in the matter to have the will proved and to have probate thereof issued to him.

Mode of application for probate. Civil Procedure Code, section 524.

27 (i.) Every application for the grant of probate of a will shall be made on petition by way of summary procedure.

(ii.) The petition shall set forth in numbered paragraphs to the best of the petitioner's knowledge all facts relevant to the application, and particularly—

- (a) The making of the will;
- (b) The death of the testator;
- (c) The heirs of the testator;
- (d) The details and situation of the testator's property;
- (e) The character in which the petitioner claims;
- (f) The facts which justify his doing so.

(iii.) The petition shall be supported by sufficient evidence, either in the shape of affidavits of facts, with the will annexed as an exhibit thereto, or of oral testimony, proving that the will was duly executed according to law, and establishing the character of the petitioner according to the claim.

Production of will. Civil Procedure Code, section 524.

28 If the will is not already deposited in the District Court in which the application is made, it must either be appended to the petition, or must be brought into court and identified by affidavit annexed thereto, or by parol testimony at the time the application is made.

Transmission of will from other District Court.
Civil Procedure Code, section 524.

All executors to be joined or made respondents.
New.
Petitioner to make persons likely to oppose respondents.
New.

Affidavit of no opposition.
Civil Procedure Code, section 525.

Order *nisi*.
Civil Procedure Code, section 526, 527.

Person interested may file *caveat* or notice of opposition.
Civil Procedure Code, section 535.

Court may make order absolute in first instance.
Civil Procedure Code, section 529.
Order *nisi* to be advertised.
Civil Procedure Code, section 532.

At final hearing on objection court shall frame issues.
Civil Procedure Code, section 533.

Civil Procedure Code, section 386.

Confirmation or discharge of Order *nisi*.
Civil Procedure Code, section 534.

29 Every person making or intending to make an application to a District Court for the grant of probate of a will which is deposited in another District Court, shall be entitled to procure the latter court to transmit the said will to the court to which application is to be made for the purpose of such application.

30 If more than one person is named as executor in the will, every such person, unless it is shown that he is dead or is out of Ceylon or has refused to act, shall either join in the petition or be made a respondent thereto.

31 If the petitioner has reason to believe that his application will be opposed by any person, he shall make such person a respondent to the petition.

32 If the petitioner has no reason to suppose that his application will be opposed by any person, he may file with his petition an affidavit to that effect, and may omit to make any person a respondent to the petition.

33 (i.) Upon the application being made, if the court is of opinion that the evidence adduced is sufficient to afford *prima facie* proof of the due making of the will and of the character of the petitioner, it shall make an order *nisi* declaring the will to be proved, and directing the issue of probate to the petitioner as executor of the will.

(ii.) Such order shall be served upon the respondent, if any, and upon such other person as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

34 At any time after the filing of a petition for the grant of probate of a will, and before the final hearing of the petition, it shall be competent to any person interested in the said will, or in the testator's property or estate, though not a respondent on the face of the petition, to intervene by filing in the same court a *caveat* against the allowing of the petitioner's claim, or a notice of opposition thereto, and any order *nisi* which may be made upon such petition shall be served upon such objector as if he had been originally named a respondent in the petition.

35 If no respondent is named in the petition, the court may in its discretion make the order absolute in the first instance.

36 Where an order *nisi* is made, the court shall direct the order to be advertised in the "Gazette," and twice in a local paper, before the day of final hearing, such paper to be selected by the court with the object that notice of the order shall reach all persons interested in the administration of the deceased's property.

Provided that the court may in its discretion direct such other mode of advertisement in lieu of such publication as to it seems sufficient.

37 (i.) If on the day appointed for final hearing, or on the day to which it may have been duly adjourned, the respondent or any person upon whom the order *nisi* has been directed to be served, or any person then appearing to be interested in the administration of the deceased's property, satisfies the court that there are grounds of objection to the application, such as ought to be tried on oral evidence, then the court shall frame the issues which appear to arise between the parties, and shall direct them to be tried on a day to be then appointed.

(ii.) On the day to which the matter is so adjourned the issues so framed shall be tried, as nearly as may be, in conformity with the rules prescribed by the Civil Procedure Code for the trial of issues in a regular action.

38 (i.) If at any final hearing, or on the determination of the issues thus framed, it shall appear to the court that the evidence of the material allegations of the petition has not been rebutted, then the order *nisi* shall be made absolute, and probate shall issue accordingly, subject to the conditions hereinafter prescribed.

(ii.) If, on the other hand, it shall then appear to the court that the evidence of any material allegations in the petition has been rebutted, the order *nisi* shall be discharged, and the petition dismissed.

Dismissal of petition no bar to renewal.
Civil Procedure Code, section 534.

39 The dismissal of the petition shall not be a bar to a renewal of the application by the petitioner so long as grant of probate of the deceased's will or of letters of administration of his estate shall not have been made, either on the occasion of this application or subsequently thereto, to some person other than the petitioner.

Court may refuse probate to executor unfit to be entrusted with administration.
P 5.

40 If it is established to the satisfaction of the court that any person named as executor in the will is for any cause whatever unfit to be entrusted with the administration of the deceased's estate, it may refuse to grant probate to such person, and may in lieu thereof grant to some proper person administration of the estate with the will annexed in manner hereinafter provided.

Sealing in Ceylon of probates granted in United Kingdom.
New.

41 (1) Notwithstanding anything contained in this chapter, where a court of probate in the United Kingdom has granted probate in respect of the estate of a deceased person, the probate so granted may, on being produced to and a copy thereof deposited with the court, be sealed with the seal of the court, and thereupon shall be of the like force and effect, and shall have the same operation in Ceylon as if granted by the court.

(2) Provided the court shall, before sealing a probate under this section, be satisfied that duty has been paid in respect of so much of the estate as is liable to duty in Ceylon, and may require such evidence, if any, as it thinks fit as to the domicile of the deceased person.

(3) The court may also, if it thinks fit, on the application of any creditor, require before sealing that adequate security be given for the payment of debts due from the estate to creditors residing in Ceylon.

(4) For the purposes of this section a duplicate of any probate sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

CHAPTER IV.

Grant of Letters of Administration with Will annexed.

Court in certain cases may grant letters of administration with the will annexed.

42 In the following cases, that is to say—

- (a) Where no executor is named in a will;
- (b) Where the person named as executor is dead;
- (c) Where the person named as executor is unwilling to act, or has renounced probate, or, being out of Ceylon, has appointed no attorney for the discharge of his functions;
- (d) Where the court is of opinion that the person named as executor is unfit to be entrusted with the administration of the estate—

Civil Procedure Code, section 519 (modified).
P.

the court may issue letters of administration with the will annexed to some person who, in the opinion of the court, is a proper person to be appointed administrator.

Form of application and procedure.

43 An application for letters of administration with the will annexed shall be made in the same manner and conform to the same rules as applications for probate, and all the provisions of sections 25 to 39 relating to applications for probate shall, with the necessary modifications, apply to the procedure upon such application.

Next of kin to be made respondents.
New.

44 In any petition for the grant of letters of administration with the will annexed, the next of kin, or if the petitioner is himself one of the next of kin, the rest of the next of kin shall be made respondents to the petition.

Conflict of claims.
Civil Procedure Code, section 523 (modified).

45 In the event of a conflict of claims, unless for good cause shown, the court shall otherwise order the claim of a widow or widower shall be preferred to any other of the next of kin, the claim of an heir shall be preferred to the claim of any of the next of kin not an heir, and the claim of a residuary legatee or devisee shall be preferred to the claim of a creditor.

CHAPTER V.

Effect of Grant of Probate or Administration.

Grant of probate or administration vests title to estate in executor or administrator.
P. 5 (modified).

46 (1) Subject to any limitation contained in the grant, the effect of a grant of probate or letters of administration shall be to vest in the executor or administrator absolutely for the purpose of the administration of the estate all the property, movable and immovable, comprised in the estate.

Provided that no title shall pass to any property not included in the inventory filed by the executor or administrator.

(2) The title of the executor or administrator so vested shall be deemed to relate back to the date of the death of the deceased, and shall have effect accordingly.

How title vested in heirs and devisees.
P. 5 (modified).

47 (1) In so far as the same shall not have been disposed of for the purpose of the administration of the estate or otherwise divested by law, the title of the executor or administrator may be divested in so far as relates to immovables by a conveyance, and in so far as relates to movables by delivery or assignment to the persons entitled under the will or by right of inheritance.

(2) Where immovable property is devised by will, the property may in the alternative be divested from the executor and vested in the devisee, in lieu of a conveyance, by an assent in writing executed by the executor.

Duration of grant.
Civil Procedure Code, section 540.

48 The powers conferred by the grant upon an executor or administrator shall endure for his lifetime, or until he shall have fully administered the estate, or until the grant is revoked.

Effect of death or revocation of grant.
Civil Procedure Code, section 549.

49 (1) Upon the death of an executor or administrator, or upon the revocation of his grant, the property, movable and immovable, comprised in the estate, in so far as the same is not already administered, shall re-vest in the court until a fresh grant shall be issued.

(2) Upon such fresh grant being issued, the title thereby vested shall relate back to the death of the executor or administrator, or the revocation of the original grant, as the case may be, and shall take effect accordingly.

New.

CHAPTER VI.

Obligations of Executors and Administrators on Assumption of Office.

Executor or administrator to take oath, file inventory and valuation, and give security.
Civil Procedure Code, section 538, re-drafted.

50 It shall be the duty of any person to whom a grant of probate or letters of administration (whether with or without a will annexed) has been issued—

- (a) To take the oath or affirmation of an executor or administrator according to the prescribed form ;
- (b) To file in court within the time appointed in the order of the court an inventory and valuation of the deceased's estate made out in duplicate and verified on oath or affirmation according to the prescribed form ;
- (c) When so required by the court to enter into a bond in the prescribed form with two good and sufficient sureties for the due administration of the deceased's estate.

Effect of security bond as regards sureties.
Civil Procedure Code, section 538.

51 The bond so entered into shall render the sureties responsible in any suit brought for the administration of the deceased person's property for all deficiencies, depreciation, or loss of that property attributable to the default of their principal, and liable to make good the same to the same extent and in like manner as if the said default were their own, subject, however, to the conditions of the bond in that behalf.

Court may require an executor to give security at any stage of testamentary proceedings, and may limit the amount of security to be given by an administrator.
P. 6.

52 In cases of the issue of probate security shall not ordinarily be required, but the court may at any time at any stage of testamentary proceedings make order, for reasons recorded, requiring an executor to give security for the due administration of the estate to such extent and in such form as to the court may seem expedient ; and in cases where the grant of administration is limited in regard to the dealing with the property which is the subject thereof, it shall be within the discretion of the court to dispense with the giving of the bond under section 50, and in all cases the court may limit the amount secured by the bond to the value of the movable

property which appears to the court likely to come into the hands of the administrator and to be liable to misappropriation.

Provided that every order dispensing with the bond or limiting the amount to be secured thereby in cases of administration shall adjudicate upon the facts upon which the court intends it to rest.

Security indispensable on appointment under sections. Civil Procedure Code, section 521. Security not to be given by public trustee. P 7.

53 Security shall in no case be dispensed with where letters of administration are issued to any person under section 42 or to the secretary of the court under section 63.

54 In any case in which the court in its discretion issues letters of administration to the public trustee constituted by the Public Trustee Act, 1906 (6 Edw. VII. chapter 55), or to any person applying for him or on his account, such trustee or person shall not be required to give any security for the due administration of the estate, but he shall be subject to the same liabilities and duties as if he had given such security.

Correction of error or omission in inventory or valuation. New.

55 An error or omission in any inventory or valuation filed by an executor or administrator may be corrected at any time by the court by which probate or administration was granted on the application of any person interested upon such terms as to the court may seem meet, and upon correction being so made the inventory or valuation shall be deemed to have been originally filed as corrected.

Provided that where the correction is made after the grant of probate or administration, the effect of the correction, if made before the grant of probate or administration, would have involved the payment of stamp duty in excess of that actually paid, the court may in its discretion require the payment of double the additional stamp duty by the person filing the inventory or valuation, or the person making the application.

CHAPTER VII.

Revocation, Re-issue, Rectification, and Limitation of Grant.

Power of court to revoke probate or letters of administration. Civil Procedure Code, section 536 (modified).

56 In any case where probate of a deceased person's will has issued on an order absolute in the first instance, or a grant of administration of a deceased person's property has been made, it shall be competent to the court to recall the said probate or grant of administration, and to revoke the grant thereof, upon being satisfied that the will ought not to have been held proved, or that the grant of probate or of administration ought not to have been made; and it shall also be competent to the court, either upon application or of its own motion, to recall the probate or grant of administration at any time upon being satisfied that events have occurred which render the administration thereunder impracticable or useless, or that the executor or administrator is dilatory, dishonest, or incompetent.

Mode and conditions of revocation. Civil Procedure Code, section 537.

57 All applications for the recall or revocation of probate or grants of administration shall be made by petition, in pursuance of the rules of summary procedure prescribed by the Civil Procedure Code; and no such application shall be entertained unless the petitioner shows in his petition that he has such an interest in the estate of the deceased person as entitles him in the opinion of the court to make such application.

Power of court to issue fresh grant. Civil Procedure Code, section 540 (modified).

58 When a sole executor or a sole surviving executor to whom probate has been granted, or a sole administrator or a sole surviving administrator to whom a grant of administration has been made, dies leaving a part of the deceased's property unadministered, or when any grant of probate or administration is revoked, then a fresh grant of administration may be made in respect of the property left unadministered according to the rules hereinbefore prescribed for a first grant.

Rectification of grant. Civil Procedure Code, section 550.

59 Errors in names and descriptions, or in setting forth the time and place of the deceased's death or the purpose in a limited grant, may be rectified by the court, and the grant of probate or letters of administration may be altered and amended accordingly.

Limitation of grant. Civil Procedure Code, section 559, 548.

60 The court may make a grant of probate or a grant of administration, limited either in respect to its duration, or in respect to the property to be administered thereunder, or to

the power of dealing with that property which is conveyed by the grant in the following cases :

- (a) When the original will of the deceased person has been lost since the testator's death, but a copy has been preserved, probate of that copy may be granted, limited until the original be brought into court.
- (b) In the like event, and with the like limitation, if no copy has been preserved, probate of a draft will may be granted, or if in addition no draft is available, then probate of the contents or of the substance and effect of the will, so far as they can be established by evidence, may be granted.
- (c) When the original will is in the hands of some person residing out of Ceylon, who cannot be compelled to give it up to the executor, and if the executor produces a copy, then probate of that copy may be granted, limited until the original be brought into court. If, however, the will has been duly proved out of Ceylon, probate may be granted to the executor on a proper exemplification of the foreign probate without any limitation in the grant.
- (d) If the sole executor of a will resides, or if there are more executors than one and all the executors reside, out of Ceylon, or such of the executors as reside in Ceylon decline to act, then the court may grant administration with copy of the will annexed to any person within Ceylon, as attorney of the executor or of the executors, who shall be appointed for that purpose by power of attorney, the grant so made being limited for the use and benefit of the principal until the executor or one of the executors comes in and obtains probate for himself. If the document admitted to proof in this case be a copy or of substitute for the original, on account of the original itself not being forthcoming by reason of one of the just mentioned causes, the grant shall further be limited until the original is brought into court. Provided also that if the person applying for the grant is not the attorney of all the executors, where there are more than one, the grant of administration shall not be made to him until the remaining executors have declined to act.
- (e) In the case of a will, and there being no executor within Ceylon willing to act, grant of administration with copy of the will annexed may be made to the attorney of an absent residuary legatee or heir, limited until the principal shall come in and obtain administration for himself; or in the like case the grant may be made to the guardian of a minor residuary legatee within Ceylon, limited during the minority, or to the manager of the estate of a lunatic residuary legatee within the Island, limited during the lunacy.
- (f) In the case of intestacy, grants of administration of the deceased person's property may be made, limited in like manner to the guardian of a minor heir or to the manager of the estate of a lunatic heir.
- (g) The court may grant probate or administration limited to any particular property or for any particular purpose, in any case where it considers that a larger grant is unnecessary.

In all the foregoing cases the material and relevant facts necessary to justify the court in making the limited grant must be set out in the petition of application, and must be established by *prima facie* evidence before the order is made, as is prescribed in section 27.

61 If any person shall die leaving property in Ceylon, the judge of the court of any district in which such property shall be situate shall, on the facts being verified to his satisfaction, and it being made to appear that there is not resident, within the local limits of his jurisdiction, some next of kin or other person entitled to administration of the estate of the person so dying, issue letters *ad colligenda* in the prescribed form to one or more responsible persons to take charge of such property, until the same shall be claimed by some executor or administrator lawfully entitled to administer the same.

PART III.

PROVISIONS FOR THE PROTECTION
OF THE REVENUE.

CHAPTER I.

Compulsory Administration.

Where estate amounts to one thousand rupees administration compulsory. Civil Procedure Code, section 545 (modified).

62 (1) In the following cases, that is to say—

- (a) Where the value of an estate amounts to or exceeds one thousand rupees,
(b) Where in the opinion of the court, though the value of the estate is less than one thousand rupees, it is desirable that it should be administered subject to the control of the court,

administration shall be compulsory.

(2) In any such case, if no application is made for probate or letters of administration, it shall be the duty of the court, if no one of the next of kin of the deceased consents to take out letters of administration, or no one of the next of kin whom the court considers a fit and proper person for the purpose, to appoint some fit and proper person to administer the estate, and to make a grant to such person of letters of administration, or in the case of a will of letters of administration with the will annexed.

Court may appoint secretary administrator, Civil Procedure Code, section 520. Secretary may proceed in blank. Civil Procedure Code, section 522.

63 Where there is no person fit and proper, in the opinion of the court, to be appointed administrator in manner in the last preceding section provided, or no such person is willing to be so appointed, and not in any other case, the court shall appoint the secretary of the court such administrator.

64 (1) Where letters of administration have been granted to the secretary of the court under the last preceding section, or where under section 77 letters of administration have been granted to any other public officer, it shall be competent for the court in its discretion to allow such secretary or public officer to proceed without supplying the stamps required by law to be supplied by executors and administrators in proceedings taken under this chapter, until such time as assets of the estate sufficient to defray the cost of the same shall have come to his hands.

(2) The amount which would have been payable by such secretary or public officer as administrator on any proceedings in which he has been so allowed to proceed on blank shall be calculated by the court, and shall be a first charge on all the assets of the estate.

CHAPTER II.

Certificates of Exemption.

(Whole chapter new.)

Where estate less than one thousand rupees, next of kin entitled to certificate of exemption.

Certificate to be granted upon affidavit.

Affidavit to contain inventory and valuation.

65 Where an intestate estate comprising immovable property is less than one thousand rupees in value, the next of kin of the deceased shall be entitled to a certificate of exemption from duty in manner hereinafter prescribed.

66 (1) A certificate of exemption may be granted by the judge of the District Court having jurisdiction for the purpose of the administration of the estate upon the production of an affidavit in the prescribed form sworn by one of the next of kin of the deceased.

(2) Every such affidavit shall be made out in duplicate and shall contain—

- (a) Particulars of the time and place of the death of the deceased ;
(b) An inventory and valuation of the property comprised in the estate ;
(c) A declaration of the deponent that the property comprised in the estate is less than one thousand rupees in value.

Court may require additional evidence.

(3) The court may in its discretion before granting the certificate require to be satisfied by other evidence as to the value of the estate.

Facilities for making of affidavit and transmission of certificate.

67 The affidavit may be sworn—

- (a) Before any District Judge, or any officer of a District Court appointed for the purpose; or
- (b) Before any Commissioner of Requests, Police Magistrate, or Justice of the Peace—

and the certificate of exemption may be transmitted to the deponent through the authority before whom the affidavit was sworn to.

Duty of person before whom affidavit sworn.

68 It shall be the duty of the person before whom an affidavit is sworn under this chapter—

- (a) To explain to the deponent the requirements of the law and the consequences of its infringement;
- (b) To render to the deponent all necessary assistance for the purpose of drawing up the affidavit;
- (c) If not himself an officer of the District Court having jurisdiction in the matter to transmit the affidavit to the said District Court, and upon receiving the certificate of exemption to transmit it to the deponent.

Effect of certificate of exemption.

69 The effect of the issue of a certificate of exemption shall be to vest in the persons legally entitled according to their respective shares all the property comprised in the estate as from the date of the death of the deceased.

Provided that no title shall pass in respect of any property not included in the affidavit upon which the certificate of exemption was issued.

Cancellation of certificate of exemption.

70 (1) A certificate of exemption may be cancelled by the court issuing it at any time within twelve months of its issue, if the court shall be satisfied that it ought not to have been issued.

(2) Unless so cancelled, the certificate of exemption in all proceedings in which the title to any property comprised in the estate is in issue shall, in the absence of proof of gross fraud, be conclusive as to the value of the estate.

Correction of error or omission.

71 An error or omission in an affidavit under this chapter not involving the cancellation of the certificate may be corrected by the court at any time on the application of the deponent, or of one of the next of kin, or of any person claiming through or under them, and the certificate of exemption may be amended accordingly on such terms as to the court may seem meet.

Stamp duty on certificate.

72 No stamp duty shall ordinarily be payable in respect either of the affidavit of an applicant for a certificate of exemption nor upon the certificate.

Provided that—

- (a) Where the certificate is applied for after an interval of three months from the death of the deceased; or
- (b) Where it is applied for in consequence of a summons under section 77; or
- (c) Where the certificate is amended in consequence of an error or omission, and the court shall be of opinion that such error or omission was wilful—

the certificate shall be liable to a stamp duty of five rupees.

Copy of certificate.

73 Any of the next of kin of a deceased intestate in respect of whose estate a certificate of exemption has been issued, and any person claiming through one of the next of kin, shall be entitled at any time to a copy of the certificate of exemption on application to the court by which it was issued, and on payment of the prescribed copying charges.

Registrar to serve notice on next of kin.
New.

74 It shall be the duty of every registrar of a division (including division situated within the town of Colombo) to serve upon the next of kin of the deceased resident within his division a notice in the prescribed form calling upon them to

take out letters of administration to the estate of the deceased, or if he has left a will, to take steps to have the will proved, or if it is claimed that the value of the estate is less than one thousand rupees, to apply to the District Court for a certificate of exemption.

District Judge to make monthly return to Government Agent.
New.

75 It shall be the duty of every District Judge to forward to the Government Agent having jurisdiction in his district at the end of each month—

- (a) A return in the prescribed form of all applications for probate or administration received by him during the month ;
- (b) Duplicates of all inventories and valuations or supplementary inventories and valuations filed in his court during the month ;
- (c) A return of all certificates of exemption granted or applied for during the month, together with duplicates of all affidavits of persons applying for such certificates during the month.

Punishment for wilful neglect to apply for letters of administration or probate.
Civil Procedure Code, section 542 (modified).

76 Any person who, with a view to evade payment of duty, shall wilfully neglect to apply for letters of administration or probate in respect of any estate of the value of one thousand rupees or over shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees.

Power of Government Agent to summon next of kin to take out letters of administration or apply for certificate of exemption.
New.

77 The Government Agent or any person acting under his directions may at any time after one month from the death of any deceased person, and after one month's notice to the next of kin of the deceased, apply to the District Court for a summons to be served upon the next of kin calling upon them to show cause why letters of administration should not be issued to one of them, or to some fit and proper person appointed by the court, or in the alternative why they should not apply for a certificate of exemption, and the court upon the hearing of the said summons may make such order thereon as seems just.

Power of Government Agent to intervene in any administration proceedings to challenge valuation.
P 4 (modified).

78 The Government Agent shall be entitled at any stage of any proceedings for the administration of an estate under this Ordinance to intervene in the proceedings for the purpose of contesting the completeness of any inventory or the accuracy of any valuation filed therein, and the court upon such intervention and upon hearing all parties interested therein may make such order as seems just.

Double stamp duty in case of wilful undervaluation.
New.

79 If in any proceeding under this Ordinance the court finds that any property has been wilfully omitted from any inventory, or that any estate or any portion of any estate has been wilfully undervalued, it may direct that double stamp duty shall be payable in respect of the value of the property so omitted or undervalued.

Proceedings by Government Agent to be instituted and continued in name of his office.
New.

80 Any proceedings instituted by a Government Agent, or under his directions, in pursuance of this chapter, shall be instituted in the name of his office, and may be so continued, notwithstanding any change in the person for the time being filling the office.

Notice or summons to be served on next of kin in prescribed order.
New.

81 Where it is provided by this chapter that any notice or summons may be served upon the next of kin of any deceased person, such notice or summons may be served upon the widow or widower of the deceased, as the case may be, and failing such widow or widower, upon the nearest male relative of the deceased, being a major, and failing such male relative upon the nearest female relative, being a major, such persons respectively being within the district of the court having jurisdiction in the matter.

Provided that in the case of a deceased Muhammadan leaving a widow, the notice or summons, in lieu of being served upon such widow, shall be served upon the nearest male relative, being a major.

Reference to Government Agent to include Assistant Government Agent.
New.

82 Any reference to a Government Agent in this chapter shall include an Assistant Government Agent.

PART IV.

CONDUCT AND CONTROL OF ADMINISTRATION.

CHAPTER I.

General Duties and Obligations of Executors and Administrators.

Duties of executor or administrator.
New.

83 It shall be the duty of an executor or administrator on assuming the administration of an estate, subject to the provisions of this Ordinance—

- (a) To collect all the assets belonging to the estate ;
- (b) To realize all debts due to the estate ;
- (c) To enforce all claims to which the estate is entitled ;
- (d) To pay all debts, and satisfy or settle all claims for which the estate is responsible ;
- (e) To manage the property comprised in the estate pending its distribution ;
- (f) To discharge all legacies due under the will of the testator ;
- (g) To distribute and dispose of the estate in accordance with the directions of the will or the rules of intestate succession.

No action by executor or administrator without sanction of court.
P.

84 (1) No action shall be instituted by an executor or administrator to enforce any claim to which the estate is entitled without the sanction of the court in which the estate is being administered.

(2) Such sanction shall not be given unless the court is satisfied that the estate cannot be conveniently administered unless the action is brought, and that the claim cannot expediently be assigned for the purpose of enforcement to the heirs, beneficiaries, or devisees.

No executor or administrator to consent to judgment without sanction of court.
P 9 (727).

85 An executor or administrator shall not be competent to consent to judgment in any action instituted against him, or in which he is made a defendant, and no judgment in any such action shall be entered against him by default or of consent, without the sanction of the court in which the estate is being administered.

No executor or administrator to compromise claim without sanction of court.
New.

86 No executor or administrator shall compromise any claim by or against the estate, whether made in an action or otherwise, without the sanction of the court in which the estate is being administered, and no such compromise shall be accepted or acted upon by any court unless it is satisfied that such sanction has been granted.

No executor or administrator to sell property to discharge debt or legacy without sanction of court.

87 No executor (unless authorized by the express provisions of the will) and no administrator shall sell any property belonging to the estate for the purpose of discharging any debt or legacy due from the estate without the sanction of the court in which the estate is being administered.

CHAPTER II.

Discovery of Assets.

Proceedings to discover property withheld, &c. Civil Procedure Code, section 712.

88 (1) An executor or administrator may present to the court from which grant of probate or administration issued to him a petition entitled as of the action in which such grant issued, setting forth upon knowledge or information and belief any facts tending to show that money or other movable property which ought to be delivered to the petitioner, or which ought to be included in his inventory and valuation, is in the possession, under the control, or within the knowledge or information of a person who withholds the same from him, or who refuses to impart any knowledge or information he may have concerning the same, or to disclose any other fact which will in any way aid the petitioner in making discovery of such property, so that it cannot be inventoried and valued ; and praying an inquiry respecting it, and that the person complained of may be cited to attend the inquiry and to be examined accordingly.

(2) The petition may be accompanied by affidavits or other evidence tending to support the allegations thereof.

<p>Citation by court. Civil Procedure Code, sections 712, 713.</p>	<p>89 (1) If the court is satisfied upon the materials so presented that there are reasonable grounds for inquiry, it shall issue a citation accordingly, which may be made returnable forthwith, or at such future time as the court shall direct.</p> <p>(2) There shall be annexed to, or endorsed on, the citation an order signed by the judge or other officer of the court requiring the person cited to attend personally at the time and place therein specified.</p>
<p>Service of citation. Civil Procedure Code, section 713.</p>	<p>90 The citation and order shall be personally served, and the service shall be ineffectual, unless it is accompanied with payment or tender of the sum required by law to be paid or tendered to a witness subpoenaed to attend a trial in a civil court.</p>
<p>Examination of person cited. Civil Procedure Code, section 714.</p>	<p>91 (1) Upon the attendance of a person in obedience to such citation and order, he shall be examined fully and at large, on oath or affirmation, respecting any money or other property of the testator or intestate, or of which the testator or intestate was in possession at the time of or within two years preceding his death.</p> <p>(2) A refusal to be sworn or to answer any question allowed by the court shall be punishable in the same manner as a like refusal by a witness in a civil case.</p>
<p>Proceedings at inquiry. Civil Procedure Code, section 715. Decree of court. Civil Procedure Code, section 716 (modified).</p>	<p>92 Either party may on any such inquiry produce evidence in like manner and with like effect as upon a trial.</p> <p>93 (1) If upon the examination and other evidence the court is satisfied that money or other property of the testator or intestate is withheld or concealed by the person cited, it shall make a decree requiring the person cited to deliver possession of the money or other property to the petitioner.</p> <p>(2) If it is not so satisfied, it shall dismiss the petition.</p>
<p>Court may direct that matters at issue be determined by regular action. Civil Procedure Code, section 716 (modified).</p>	<p>94 If upon the hearing of any such petition the court shall be of opinion that the matters at issue between the parties may more conveniently be determined by a regular action, in any such case, upon the person cited giving security by a bond entered into with the petitioner as obligee, with such securities and in such penalty as the court approves, that, in the event of it being determined in such action that the money or property in question belongs to the estate of the testator or intestate, he will—</p> <p>(a) Pay the money or deliver the property, or in default of delivery pay the value thereof; and</p> <p>(b) Pay all damages which may be awarded against him for withholding the same—</p> <p>the court may in its discretion dismiss the petition on such terms as it thinks fit, and direct that the matters at issue shall be determined by a regular action.</p>
<p>Disobedience to decree, contempt. Civil Procedure Code, section 717 (re-drafted).</p>	<p>95 Disobedience to a decree ordering the delivery of money or property under the provisions of this chapter may be punished as contempt of court.</p>
<p>Warrant to seize property. Civil Procedure Code, section 717 (re-drafted).</p>	<p>96 Where the decree requires the person cited to deliver possession of property other than money, a warrant shall issue on the application of the petitioner directed to the Fiscal and commanding him to search for the property, and if it is found in the possession of the person cited, or his agent, or any person deriving title from him since the presentation of the petition, to seize the same and deliver it to the petitioner, and to return the warrant within sixty days.</p>
<p>Method of collection of debts. P 723 (modified).</p>	<p style="text-align: center;">CHAPTER III. <i>Collection and Discharge of Debts.</i></p> <p>97 The collection of all debts due to estates in course of administration shall proceed in the manner prescribed by this chapter.</p>
<p>Schedule of debts to be filed and notices to admit filed on debtors.</p>	<p>98 The executor or administrator shall, as soon as may be after assuming his duties, present to the court a schedule setting forth all the debts due to the estate, and shall apply to the court for the issue of notices to be served upon the debtors requiring them to appear before the court and to admit or deny their respective debts, or to file an affidavit admitting or denying their respective debts, and the court shall issue such notices accordingly.</p>

If debt admitted, decree to be entered.

99 If the person noticed fails to appear before the court, or appear before it and admits the debt or any part thereof, or files an affidavit admitting the debt or any part thereof, the court shall forthwith enter up a decree in favour of the executor or administrator for the amount of the debt or the amount admitted.

Debt secured by mortgage.

100 Where the debt admitted is secured by mortgage, and it is desired to enforce the right of sale under the mortgage, the court on application by the executor or administrator and on notice to the debtor shall proceed in accordance with section 201 of the Civil Procedure Code.

Incidents of decree.

101 A decree entered under this chapter shall be capable of execution in the same manner, and shall be subject to the same stamp duties, and if entered by default shall be liable to be re-opened on the same conditions as a decree in a civil action.

Procedure if debt denied.

102 If the person noticed appears before the court and denies the debt or any part thereof, or files an affidavit denying the debt or any part thereof, the court shall either—

- (a) Authorize the executor or administrator to institute a regular action for the recovery of the amount of the debt or the amount denied ; or
- (b) Direct the executor or administrator to assign to the legatees or heirs, as the case may be, the amount of the debt or the amount denied.

Provided that the court shall always adopt the latter course, unless for good cause shown deems it expedient to order otherwise.

Debtors to the estate may pay debt into court and obtain receipts.
P 725.

103 (1) It shall be competent to any person indebted to the estate of a deceased person that is being administered in any court, or who becomes a debtor to an executor or administrator as such after the grant of probate or letters of administration, to pay into such court to the credit of the estate any sum of money in full or part satisfaction of his debt.

(2) The court shall thereupon receive such sum of money and grant to the person paying a receipt therefor, and give notice to the executor or administrator of the fact of such payment.

CHAPTER IV.

Vesting of Immovables in Persons entitled.

Assent or conveyance by executors and administrators for vesting property in devisees and heirs.
P 9 (732).

104 For the purpose of vesting immovable property in a devisee or heir, an executor or administrator may make out and execute an assent or conveyance in duplicate before the judge or secretary of the court in which the estate is being administered according to the prescribed form 26 A, or in such other form or expressed in such other terms as the court may deem expedient.

Court may itself execute conveyance.
P 9 (733).

105* If in respect of any immovable property an executor or administrator decline or omit to execute an assent or conveyance in favour of a devisee or heir when required by the court to do so, the judge may execute such assent or conveyance on behalf of the party in default. Such assent or conveyance shall have the same effect as if it were executed by the executor or administrator.

Privileges and exemptions of such conveyance.
P 9 (732).
New.

106 An assent or conveyance executed under the special provisions of the last two preceding sections—

- (a) Shall not require notarial attestation ;
- (b) Shall not be liable to stamp duty ;
- (c) Shall not be liable to any fee on registration.

Court to transmit such conveyance for registration.
P 9 (732).

107 Where an assent or conveyance is executed under the provisions of this chapter, the judge or the secretary of the court shall take charge of the duplicate and transmit the same to the Registrar of Lands for the district in which the land conveyed is situated in like manner as now is, or hereafter shall be, required to be done by notaries in respect of deeds executed before them.

Saving as to other modes of conveyance.
New.

108 Nothing contained in this chapter shall be deemed to preclude an executor or administrator from vesting the immovables comprised in the estate in the persons thereto entitled in any other manner authorized by law.

CHAPTER V.

Complaints against Executors and Administrators.

Failure of executor or administrator to file inventory and valuation or account.

Civil Procedure Code, section 718 (re-drafted).

Court may order attachment.

Civil Procedure Code, section 718.

Discharge from commitment.

Civil Procedure Code, section 719.

Complaints by creditors, legatees, or heirs that their claims are not satisfied.

Civil Procedure Code, section 720 (re-drafted).

Order of court.

Civil Procedure Code, section 721.

When court to dismiss petition.

Civil Procedure Code, section 721 (re-drafted and modified).

Appeal.

Civil Procedure Code, section 722.

P 10.

Accounts to be filed and estate closed within twelve months.

Civil Procedure Code, section 553.

109 Where an executor or administrator has failed to file in court the inventory and valuation and account required by law (or a sufficient inventory valuation or account) within the time prescribed therefor, the court, upon the presentation of an affidavit by a creditor, or any person interested, or of its own motion, may make an order requiring the executor or administrator to file the inventory and valuation or account, or a supplementary inventory and valuation or account, as the case may be, or in default thereof to show cause at a time and place therein specified why he should not be attached,

110 Upon the return of the order, if the executor or administrator has not filed a sufficient inventory and valuation or sufficient accounts, the court may issue a warrant of attachment against him, and may deal with him as for a contempt of court.

111 A person committed to prison under the provisions of the last preceding section may be discharged by the court upon his paying and delivering under oath all the money and other property of the testator or intestate, and all papers relating to the estate under his control, to the judge or person authorized by the judge to receive the same.

112 Where at any time after twelve months have expired since a grant of probate or administration—

(a) A creditor complains that a debt due to him from the estate (or its just proportional part) has not been paid; or

(b) A legatee, devisee, or heir complains that his legacy, devise, or share (or its just proportional part) has not been delivered to him—

the person aggrieved may present a petition to the court praying for a decree directing the executor or administrator to satisfy his claim, and that he may be cited to show cause why such decree should not be made.

113 On the presentation of such petition the court shall issue a citation accordingly, and upon the return thereof shall make such decree in the premises as justice requires.

114 (1) If the executor or administrator on the hearing of the petition or by affidavit filed in answer thereto satisfies the court—

(a) That he in good faith disputes the petitioner's claim, or that it is of doubtful validity or legality; or

(b) That there is no money or other movable property of the estate applicable to the payment or satisfaction of the petitioner's claim; or

(c) That the petitioner's claim cannot be satisfied without injuriously affecting the rights of others entitled to equality of payment or satisfaction—

the court shall dismiss the petition.

(2) Such dismissal shall not prejudice the right of the petitioner to an action or account.

115 Every order or decree made under the provisions of this chapter shall be subject to an appeal to the Supreme Court, and such appeal shall be treated as an interlocutory order and disposed of as speedily as possible.

CHAPTER VI.

Closing of Estate within Year.

116 Every executor and administrator shall file in the District Court, on or before the expiration of twelve months from the date upon which probate or grant of administration issued to him, a true account in the prescribed form of his executorship or administration, as the case may be, verified on oath or affirmation, with all receipts and vouchers attached.

Court may order account to be filed within time specified.

New.

In default executor or administrator liable for interest.

Civil Procedure Code, section 554.

Where estate involves protracted trust accounts to be filed and trust carried out independently.

P 8 (731).

Money belonging to minor may be paid into court.

Civil Procedure Code, section 585.

Power to file intermediate account.

P 735.

Court may order intermediate account.

P 736.

Court may extend time for filing account.

P 737.

Court may direct judicial settlement.

P 11 (737).

Account to be filed.

If defective, to be returned for amendment.

Notice to persons interested.

Items to be contested.

Issues to be framed and summarily decided.

117 Where an executor or administrator shall have failed to file the account within the time limited in the last preceding section, the court on the application of any person interested may make an order directing the filing of the account within a time mentioned in the order.

118 If any executor or administrator shall fail to pay over to the creditors, heirs, legatees, or other persons the sums of money to which they are respectively entitled within one year after probate or administration granted, such executor or administrator shall be liable to pay interest out of his own funds for all sums which he shall retain in his own hands after that period, unless he can show good and sufficient cause for such detention.

119 Where a will directs possession of any property by the executor named therein for the purpose of carrying out any general or special trust which cannot be carried out within a period of twelve months from the date of the grant of probate, or where by the will the executor is charged with any trust which cannot be conveniently executed within such period, the executor shall not be required or permitted to execute such trust in his capacity as executor, but he shall file his account under section 116 and close the estate, taking over such property as may be available for carrying out such trust, and carry out the same as a mere trustee without further reference to the court, or being subject to its orders in the testamentary proceedings.

120 Where at the time of filing final accounts an executor or administrator shall have in his hands moneys to which any minor may be entitled, and which has come into his hands in the course of the administration of the estate, he may pay such moneys into court.

121 An executor or administrator may at any time voluntarily file in the court from which grant of probate or administration issued to him an intermediate account, and the vouchers in support of the same.

122 The court may in any case at any time, and either upon application of a creditor or party interested or of its own motion, make an order requiring an executor or administrator to render an intermediate account.

123 The court may at any time on sufficient cause shown by an executor or administrator extend the time for filing the account.

CHAPTER VII.

Judicial Settlement of Estate.

124 In any case in which the court shall deem such a course expedient in the interests of the estate, the court may direct a judicial settlement of the estate.

125 In any such case, if no account or no final account of the estate shall have been filed, or the court shall not already have directed the filing of such an account, the court shall direct that an account shall be filed.

126 If any account so filed appear to the court to be deficient in any respect, the court may refuse to accept it, and return the same to the executor or administrator for amendment.

127 On such account being filed, the court shall issue notice thereof to such persons as the court may deem to be interested therein.

128 It shall be lawful for any person whom the court may deem to have an interest in the estate of the deceased to contest the correctness of any item in such account, or to claim the insertion of any further item therein.

129 (1) In the case of any such contest or claim the court shall summarily inquire into the same, framing, if necessary, issues that may appear to it to arise between parties interested or between any one or more of them and the executor or administrator, and in such inquiry adjudicate upon all matters in issue and amend the account accordingly.

(2) An adjudication under this section shall, subject to appeal, be final and conclusive between the parties to any contest as aforesaid.

Court may refer parties to regular action.

130 If after such inquiry as aforesaid any question appear to the court to be a fit and proper subject for decision in a separate regular action, the court may refer the parties interested in such question to such an action and accept the said account, subject to amendment or further amendment after the decision of such action.

CHAPTER VIII.

Distribution of Immovables.

Distribution of immovable property of estate according to scheme agreed to by heirs.

P 11 (738).

131 (1) For the purpose of facilitating the final distribution of an estate by an administrator, the heirs may agree to a scheme of distribution of the immovable property, and submit the same to the court for approval.

(2) If the said scheme, or any amendment or modification thereof, is approved by the court, the administrator shall grant conveyances under section 104 in accordance with such scheme.

Court to promote holding of immovables in severalty.

P 11 (738) modified.

132 In the consideration of any such scheme the court shall, so far as possible, promote the holding of immovable property in severalty, and shall not approve any provision of the scheme involving joint possession of any separate portion of land or other immovable property, unless it shall be satisfied that such portion cannot otherwise conveniently be dealt with.

Power of court to order compulsory distribution.

P 11 (738) modified.

133 In the case of any intestate estate comprising immovable property, if the heirs do not agree to any such scheme of distribution, or if the court does not approve of any scheme so submitted, it shall be lawful for the court, on the application of any person interested, or of its own motion, to cite all parties interested in the immovable property of the estate, and after such inquiry as it may deem necessary to settle a scheme of distribution, and to direct the administrator to grant conveyances under section 104 accordingly.

Court may direct separate portions to be partitioned.

New.

134 For the purpose of any scheme of distribution under this chapter, the court may direct any separate portion of the immovable property of the estate to be partitioned and to be distributed in accordance with the scheme.

Court may direct sale of portion not conveniently distributable or partitionable.

P 11 (739) modified.

135 If in the consideration of any scheme of distribution under this chapter the court shall find it impracticable to distribute the property, or any part thereof, or to partition any part thereof for the purpose of the distribution, it may direct the sale of the right, title, and interest of the deceased in and to such property or any part thereof on such terms as it may deem desirable, and divide the proceeds among those entitled thereto.

Court may direct sale of estate devolving in minute shares.

New.

136 In any case in which it is brought to the notice of the court that the immovable property comprised in an estate, or any portion thereof, if allowed to devolve in accordance with the rules of intestate succession, would be held in shares too minute either for a distribution under this chapter, or for profitable working, it shall be lawful for the court, on the application of any person interested, or of its own motion, to direct a sale of the right, title, and interest of the deceased in and to such property, or such portion thereof, on such terms as it may deem desirable, and to divide the proceeds among those entitled thereto.

Court may issue commission for appraisement, survey, or division.

P 11 (740) modified.

137 For the purpose of enabling the court to decide whether property should be distributed, partitioned, or sold, or for the purpose of carrying out a partition ordered under this chapter, the court may issue a commission to any person or persons to appraise, survey, or divide the said property or any portion thereof, and may direct such remuneration as it may deem to be adequate to be paid to such person or persons out of the estate.

Court may prohibit or refuse to complete sale to several persons jointly.
P 11 (740).

138 In the event of a decree for sale under this chapter the court may prohibit the acceptance of a bid by more than one person or by one person on behalf of several for the property of the estate or any portion thereof, and may refuse to sanction the completion of the sale of such property or portion thereof in favour of more than one person, if the court deems it inexpedient to allow more than one person to be joint owners of such property or portion thereof.

Remedy of heir, where title to portion allotted proves defective.
P 11 (739).

139 (1) In the event of a distribution under this chapter, if it be found after distribution that any heir or legatee is prejudiced by reason of the title of the deceased to the portion allotted to him being defective, such heir or legatee shall be entitled on application to the court in which the estate was administered to an order directing the other persons on whom shares are vested under the distribution to compensate the said heir or legatee for his loss *pro rata*, either by a pecuniary payment, or in such other manner as the court may direct to recover his loss *pro rata* from his co-heirs.

(2) The right to such recovery shall be barred in twelve months after the discovery by the heir of the defect in the title of the deceased.

CHAPTER IX.

Compensation of Executors and Administrators.

Compensation of executors and administrators.
Civil Procedure Code, section 551.

140 (1) Compensation shall be allowed to executors and administrators by way of commission as well on property not sold but retained by the heirs, as on property sold by such executors and administrators, at such rate not exceeding three per centum, and on cash found in the estate and on property specially bequeathed at such rate not exceeding one and a half per centum, as the court shall, after taking into consideration the circumstances of each particular case with reference to the trouble incurred by such executors or administrators, determine.

(2) In no case shall a larger sum than five thousand rupees be allowed to any executor or administrator as such compensation, unless it shall be made apparent to the court that such unusual trouble has fallen upon him as to entitle him, in the opinion of the court, to receive further remuneration.

Compensation of several executors.
Civil Procedure Code, section 552.

141 (1) Each executor or administrator shall be entitled to the full compensation allowed by law to a sole executor or administrator, unless there are more than three, in which case the compensation to which three would be entitled shall be apportioned among them all according to the services rendered by them respectively (and a like apportionment shall be made in all cases where there shall be more than one executor or administrator).

(2) But where the will provides a specific compensation for an executor or administrator, he shall not be entitled to any allowance other than that so provided, unless he files in court a written renunciation of the specific compensation.

CHAPTER X.

General Obligations of Executors and Administrators.

Executors and administrators to register addresses in court.
P 9 (728).

142 (1) It shall be the duty of every executor or administrator to register his address in court, and to notify to the court any change of address.

(2) An executor or administrator failing to register his address or notify any change of address shall be guilty of an offence, and be liable to a fine not exceeding one hundred rupees.

Executor or administrator failing to attend court when noticed to be guilty of contempt, and to be liable to punishment.
P 9 (729).

143 (1) An executor or administrator who fails to attend the court in which the estate is being administered when noticed to do so by such court, the notice being served on him personally, or left at his registered address, shall be liable to be fined by such court as for contempt.

(2) The fine that the court may so impose may be any sum not exceeding one hundred rupees, and it may be imposed in the absence of the executor or administrator and without his being called upon to shew cause against such punishment, and such fine may be recovered as directed in section 799 of the Civil Procedure Code.

(3) The court may, on the application of an executor or administrator so fined in his absence may on sufficient cause being shown by him explaining his default, remit the whole or any portion of the fine imposed on him.

Executors and administrators to be liable to pay costs of notices necessitated by their defaults.
P § (730).

144 The court may in its discretion condemn an executor or administrator to pay personally the costs of any notice issued on him at the instance of the court, where such notice is necessitated by any default on the part of such executor or administrator, and such costs may be recovered by execution issued at the instance of the court, as in the case of a decree for the payment of money in an ordinary civil action.

CHAPTER XI.

General Powers of Court.

Power to apply to court for determination of any question arising in the administration.
New.

145 Where an estate is being administered under the provisions of this Ordinance, it shall be lawful for—

- (a) Any executor or administrator;
- (b) Any heir, legatee, or any other beneficiary under a will;
- (c) Any creditor or person claiming to be a creditor of the estate—

to apply to the court for the determination in a summary manner of any question arising in the course of the administration of the estate.

Power of court on application.
New.

146 The court on any such application may issue a summons in the prescribed form, and such summons shall be served by the applicant upon all persons interested in the matter in question, and upon the hearing of the said summons the court may determine the said matter, and make such further order as may seem just.

General power of court to make orders necessary for administration of estate.
New.

147 The court shall have power at any time—

- (a) To require a report, account, or verbal explanation from the executor or administrator relating to any matter arising in the course of the administration;
- (b) To summon and examine on oath any person whom it may deem desirable to examine on any question relating to the administration;
- (c) To direct the sale of any property comprised in the estate;
- (d) To direct the payment of any debt due from the estate, or the satisfaction of any legacy or share;
- (e) Generally to make any order that may be necessary for protecting or preserving the property comprised in the estate, or for securing the interests of a beneficiary, heir, or creditor.

PART V.

SPECIAL PROVISIONS RELATING TO SMALL ESTATES.

Meaning of "small estate."

Modifications of Ordinance for purpose of small estates.

148 In this part of the Ordinance a small estate shall mean an estate not less than one thousand rupees and not exceeding two thousand five hundred rupees in value.

149 In the application of this Ordinance to small estates the following modifications shall be observed:

- (a) No affidavit in support of the application for probate or letters of administration need be presented, but the petition may be sworn as though it were an affidavit.
- (b) Where the application is made by or by the consent of the widow or widower or nearest male relative of the deceased or by the executor named in the will, unless the court shall otherwise direct, no order *nisi* shall be necessary, but the order granting probate or letters of administration shall be published in such manner as the court may direct, with a view to its notification to all persons interested in the estate.

- (c) No special inventory and valuation need be filed by the executor or administrator, but the inventory attached to the application for probate and letters of administration shall be taken to be the inventory and valuation of the estate, unless the court shall otherwise order.

Limit to
proctor's fees.

150 A proctor retained by any person applying for a grant of probate or letters of administration for the purpose of a small estate shall be entitled to charge an aggregate sum of twenty-five rupees for his professional services in connection with the administration, and no more, unless the court shall otherwise order.

SCHEDULE.

FORMS.

No. 1.—Form of Application for Letters of Administration.

(See Section 15.)

In the matter of the estate of *A. B.*, deceased,

C. D., of ———, petitioner.

vs.

(For respondent, name any person likely or competent to oppose the application.)

Civil Procedure
Code, Form 82
(adapted).

The humble petition of the above-named petitioner sheweth as follows :

- 1.—*A. B.*, late of ———, died on the ——— day of ———, 19—.
- 2.—No will of the said *A. B.* has been found.
- 3.—To the best of your petitioner's knowledge the next of kin of the said *A. B.*, deceased, are :
- 4.—Full and true particulars of the property left by the deceased, so far as your petitioner has been able to ascertain the same, are contained in the schedule hereto annexed.
- 5.—Your petitioner claims administration as (widow, creditor, &c., as the case is).

Your petitioner therefore humbly prays for an order declaring that he is entitled as such ——— (creditor, or as the case is) to administer the estate of the said intestate, and declaring that letters of administration of the said estate be granted to him accordingly. (If a limited grant is asked for, set out to that effect.

(Formal conclusion.)

No. 2.—Similar Form where any Respondent is a Minor or of Unsound Mind.

(See Section 15.)

In the matter of the estate of *A. B.*, deceased,

C. D., of ———, petitioner.

vs.

(For respondent, name any person likely or competent to oppose application.)

The humble petition of the above-named petitioner sheweth as follows :

- 1.—*A. B.*, late of ———, died on the ——— day of ———, 19—, at ———, within the jurisdiction of this court.
- 2.—To the best of your petitioner's knowledge the heirs of the said *A. B.*, deceased, are (here state name and relationship of each heir).
- 3.—Full and true particulars of the property left by the deceased, so far as your petitioner has been able to ascertain the same, are contained in the schedule hereto annexed.

4.—Of the respondents above-named, the said _____ are minors of the respective ages of _____ and (or _____ are of unsound mind), and it is necessary to have a guardian *ad litem* appointed to represent them in these proceedings, and that _____ is of full age and sound mind, and is a fit and proper person to be appointed guardian *ad litem* of the said _____, and is willing so to act.

5.—Your petitioner claims administration as (widow, creditor, &c., as the case is).

Wherefore your petitioner prays for an order (1) appointing the said _____, guardian *ad litem*, to represent the said minor respondents, and generally to act for them in these proceedings.

(2) An order declaring that the petitioner, as such administrator, to administer the estate of the said A. B., deceased, and directing that letters of administration of the said estate be granted to him accordingly, and for such other order as to the court shall seem meet. (If a limited grant is asked for, set out to that effect.)

No. 3.—Form of Affidavit in support of above.

(See Section 15.)

In the District Court of Colombo (or as the case may be).

(Title.)

Civil Procedure
Code, Form 89.

1.—I am (widow, creditor, &c.) of _____, late of _____, deceased, and knew and was well acquainted with the said _____ during his lifetime.

2.—The said _____ died on the _____ day of _____, 19—, at _____, without having made a will, and leaving property within the jurisdiction of _____ court of the nature and value shown in the schedule hereto annexed.

(Formal conclusion.)

(The Schedule.)

No. 4.—Form of Application for Probate.

(See Section 26.)

In the matter of the will of A. B., deceased.

C. D., of _____, petitioner.

vs.

(For respondent, name any person likely or competent to oppose the application.)

(Formal parts as in No. 1.)

1.—A. B., late of _____, died on the _____ day of _____, 19—.

2.—The said A. B., duly executed his last will dated the _____ day of _____, 19— (now deposited in this court, or, and the said will is appended hereto, or as the case is—see section 27).

3.—To the best of your petitioner's knowledge the heirs of the said A. B., deceased, are:

4.—Full and true particulars of the property left by the deceased, so far as your petitioner has been able to ascertain the same, are contained in the schedule hereto annexed.

5.—Your petitioner claims as executor named in the said will. Your petitioner therefore humbly prays for an order declaring the said will proved, and that he may be declared executor of the said will, and that probate thereof may be issued to him accordingly. (If a limited grant is asked for, set out to that effect.)

(Formal conclusion.)

(The Schedule.)

(Support paragraphs 2 and 5 by affidavit or oral evidence. Where no respondent is named, state the reason to be that no opposition is apprehended, and support with an affidavit; and if the testator died out of Ceylon, state that the applicant has obtained an order appointing the court to have sole testamentary jurisdiction.)

No. 5.—Form of Affidavit to be produced with Will.

(See Section 24.)

(Formal parts as in No. 4.)

1.—I knew and was well acquainted with A. B., of _____, who died on the _____ day of _____, 19—, at _____.

2.—The said A. B., duly executed his last will dated the _____ day of _____, 19—.

3.—The said A. B. deposited his said will in my custody (or, if the case is so, state the circumstances under which the deponent found the will).

4.—The said testator has left property within the jurisdiction of this (or any other, as the case may be) court of the nature and value shown in the schedule hereto annexed (or has left no property in Ceylon).

5.—I produce the said will.

*(Formal conclusion.)**(The Schedule.)*

No. 6.—Form of Application for Letters of Administration with Will annexed.

(See Section 43.)

In the matter of the estate of A. B., deceased.

O. D., of _____, petitioner.

vs.

*(For respondent, name any person likely or competent to oppose the application.)**(Formal part as in No. 4.)*

1.—A. B., late of _____, died on the _____ day of _____, 19—.

2.—The said A. B. duly executed his last will dated the _____ day of _____, 19— (now deposited in this court, or, and the said last will is appended hereto, or as the case is—see section 44).

3.—To the best of your petitioner's knowledge the heirs of the said A. B., deceased, are :

4.—Full and true particulars of the property left by the deceased, so far as your petitioner has been able to ascertain the same, are contained in the schedule hereto annexed.

5.—Your petitioner claims administration as (widow, creditor, &c., as the case is, or as the lawful attorney of the executor or executors named in the will).

Your petitioner therefore humbly prays for an order declaring the said will proved, and that he may be declared administrator of the said estate, and that letters of administration with the will annexed may be issued to him accordingly.

*(Formal conclusion.)**(The Schedule.)**(Support paragraphs 2 and 5 by affidavit or oral evidence. Where no respondent is named, state the reason to be that no opposition is apprehended, and support with an affidavit; and if the testator died out of Ceylon, state that the applicant has obtained an order appointing the court to have sole testamentary jurisdiction.)*

No. 7.—Form of Order Nisi declaring Applicant entitled to Letters of Administration.

(See Section 16.)

(Title.)

This matter coming on for disposal before (name and office of Judge), on the _____ day of _____ 19— (in the presence of _____ on the part of the petitioner, and _____ on the part of the respondent), (and the affidavit of _____, dated _____, having been read, and the evidence of _____ taken), and all parties heard):

It is ordered and declared that the said (petitioner) is entitled to have letters of administration issued to _____ accordingly, unless (the respondent or any person on whom the court directs the order to be served) shall, on or before the _____ day of _____, show sufficient cause to the satisfaction of this court to the contrary.

(Where there is no respondent, the order may be absolute in the first instance.)

The order is to be served on the respondent or on any other person on whom the court directs service. (Where the grant is to be limited, say so, and how far.)

No. 8.—Form of Order *Nisi* declaring Will proved, &c.

(See Section 33.)

(Title.)

Civil Procedure
Code, Form
No. 84.

This matter coming on for disposal before (*name and office of Judge*), on the _____ day of _____, 19— (in the presence of _____ on the part of the petitioner, and _____ on the part of the respondent), (and the affidavit of _____, dated _____, having been read, and the evidence of _____ taken), (and all parties heard):

It is ordered that the will of _____, deceased, dated _____ (and now deposited in this court, *or as the case is*), be and the same is hereby declared proved, unless (*the respondent or any person on whom the court directs the order to be served*) shall, on or before the _____ day of _____, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said (*petitioner*) is the executor named in the said will, and that he is entitled to have probate of the same issued to him accordingly (*or declare the petitioner's status where he is not executor, and state that he is entitled to administration with copy of the will annexed*), unless, &c.

(Signed, &c.) _____

(Where there is no respondent, the order may be absolute in the first instance.)

The order is to be served on the respondent or on any other person on whom the court directs service. (Where the grant is to be limited, say so, and how far.)

No. 9.—Form of Order *Nisi* declaring Applicant entitled to Letters of Administration with the Will annexed.

(See Section 38.)

(Title.)

Civil Procedure
Code
section 84.

This matter coming on for disposal before (*name and office of Judge*), on the _____ day of _____, 19— (in the presence of _____ on the part of the petitioner, and _____ on the part of the respondent), (and the affidavit of _____, dated _____, having been read, and the evidence of _____ taken), (and all parties heard):

It is ordered that the will of _____, deceased, dated _____ (and now deposited in this court, *or as the case is*), be and the same is hereby declared proved, unless (*the respondent or any person on whom the court directs the order to be served*) shall, on or before the _____ day of _____, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said (*petitioner*) is entitled to letters of administration (*with copy of the will annexed*), unless, &c.

(Signed, &c.) _____

(Where there is no respondent, the order may be absolute in the first instance.)

The order is to be served on the respondent or on any other person on whom the court directs service. (Where the grant is to be limited, say so, and how far.)

No. 10.—Form of Order making absolute or discharging the preceding Orders.

(See Sections 20, 38.)

(Title.)

Civil Procedure
Code, Form
No. 85.

This matter coming on for final determination before _____ on _____, in the presence of _____ (and the affidavits of _____ having been read, and the evidence of _____ taken), (and all parties heard):

It is ordered that the order of this court made on the _____ day of _____, 19—, be made absolute, and that probate of the will of _____ be issued to _____ (*or as the case may be*), (*or that the order* _____ *be discharged, and the petition of* _____ *be and the same is hereby dismissed*).

And it appearing to this court that _____ (*respondent or objector*) has established his right thereto, it is further ordered that (*probate or administration, as the case may be*) be issued to the said _____ accordingly.

(Signed, &c.) _____

(When the grant is to be limited, say so, and how far.)

No. 11.—Form of Probate.

(See Section 38.)

*(Title.)*Civil Procedure
Code, Form
No. 86.

In the District Court of _____.

Be it known to all men that on the _____ day of _____, 19—, the last will and testament of _____, deceased, a copy of which is hereunto annexed, was exhibited, read, and proved before this court, and administration of all the property and estate, rights and credits, of the deceased was and is hereby committed to (*name and description*), the executor in the said last will and testament named; the said _____ being first sworn (*or affirmed*) faithfully to execute the said will by paying the debts and legacies of the deceased testator as far as the property will extend and the law will bind, and also to exhibit into this court a true, full, and perfect inventory of the said property on or before the _____ day of _____, 19—, and to file a true and just account of _____ executorship on or before the _____ day of _____, 19—.

Given under my hand and the seal of the court this _____ day of _____, 19—.

(Signed) _____,
District Judge.

(When probate is limited, insert the limitation.)

No. 12.—Form of Letters of Administration (with the Will annexed and otherwise).

(See Section 42.)

Civil Procedure
Code, Form
No. 87.

In the District Court of _____.

To (*widow, widower, next of kin, secretary of the court, creditor, &c., as the case may be*).

Whereas _____ of _____, deceased, lately departed this life (leaving a will which has been duly proved in this court, a copy whereof is hereunto annexed; and whereas no executor is named in that will, *or* without leaving any will): You are therefore fully empowered and authorized by these presents to administer and faithfully dispose of the property and estate, rights and credits, of the said deceased, and to demand and recover whatever debts may belong to _____ estate, and to pay whatever debts the said deceased did owe (and also the legacies contained in the said will), so far as such property and estate, rights and credits, shall extend, you having been already sworn (*or affirmed*) well and faithfully to administer the same and to render a true and perfect inventory of all the said property and estate, rights and credits, to this court on or before the _____ day of _____, 19—, next, and also a true and just account of your administration thereof on or before the _____ day of _____, 19—. And you are therefore by these presents deputed and constituted administrator (with a copy of the will annexed) of all the property and estate, rights and credits, of the said deceased. (You are nevertheless hereby prohibited from selling any immovable property of the estate unless you shall be specially authorized by the court so to do.)

(Signed, &c.) _____.

No. 13.—Form of Oath by Executor or Administrator.

(See Section 50.)

Civil Procedure
Code, Form
No. 88.

You swear (*or the form of affirmation*) that you believe the writing now produced to you, bearing date _____, and marked _____, to be the last will and testament of deceased (That you are the executor named therein, *where the case is so*.) That you will faithfully execute the said will (*or* that you will administer and faithfully dispose of the property and estate, rights and credits, of _____, deceased) by paying the debts (and legacies) of the deceased as far as the property will extend and the law bind, and by demanding and recovering whatever debts may belong to _____ estate. That you will exhibit into this court a true, full, and perfect inventory of all the property, movable and immovable, and all the rights and credits of the deceased, on or before the _____ day of _____, 19—, and that you will file a true account of your executorship (*or* administration) on or before the _____ day of _____, 19—.

Sworn (*or affirmed*), &c.

No. 14.—Form of Security Bond to be given by Executor
or Administrator when required.

(See Section 50.)

Civil Procedure
Code, Form
No. 90.

In the District Court of _____.

Know all men by these presents that we (executor or administrator), and _____ and _____ (*sureties*), are held and firmly bound unto _____, Secretary of the District Court of _____ (or to the Secretary of the District Court of _____ for the time being), the said _____ in the sum of _____ rupees and the said _____ and _____ in the sum of _____ rupees each, to be paid to the said (Secretary or Secretary for the time being), for which payment well and truly to be made we and each of us do hereby bind ourselves, our heirs, executors, and administrators firmly by these presents, hereby renouncing _____.

Whereas by order of the said court of the _____ day of _____, 19—, it is ordered that (probate of the will or letters of administration of the property and estate of _____, deceased), be granted to the said (executor or administrator) on his giving security for the due (execution or administration) thereof: And whereas the estate of the said deceased has been appraised and valued at the sum of _____ rupees:

Now the condition of this obligation is such that if the above-bounden (executor or administrator) do render into this court a true and perfect inventory of all the property and estate, rights and credits, of the said deceased, which have or shall come to the possession or knowledge of the said _____, or of any other person for him, on or before the _____ day of _____, 19—, and shall well and truly administer the same; that is to say, shall pay all and singular the debts of the said deceased which (he) did owe at (his) decease fairly and justly according to their respective degrees, or in equal proportion if the estate should prove insufficient to satisfy all the debts in full (and shall then pay the legacies contained in the said will annexed to the said letters of administration) so far as the said property will extend and the law charge (him), and further shall render to this court a true and just account of (his) said administration on or before the _____ day of _____, 19—, and shall deliver and pay over the rest and residue of the said property and estate, rights and credits, which shall be found remaining upon the said administration, to the person or persons lawfully entitled to the same: Then this obligation to be void and of none effect, otherwise to remain in full force.

(Dated and signed by all the obligors.)

Form 15.—Form of Letters *ad bona colligenda*.

(See Section 61.)

Civil Procedure
Code, Form
No. 91.

In the District Court of _____.

To _____ and _____.

Whereas it has been verified to this court that _____, late of _____, died leaving property within the jurisdiction of this court: You and each of you are hereby empowered and authorized to take, collect, demand, and receive all and every the said property, and the rents, issues, and profits _____ thereof, and safely to keep the same until administration thereof be granted in due form of law to such person or persons as shall appear entitled to the same, or until you receive further orders from this court in the premises.

By order of court,

The _____ day of _____, 19—, _____ Secretary.

No. 16.—Form of Verification of Inventory and Valuation.

(See Section 50.)

Civil Procedure
Code, Form
No. 92.

I, A. B., of _____, executor of the last will of _____, deceased (or administrator of the estate, &c., if so), make oath and say (or solemnly, sincerely, and truly affirm and declare) as follows:

1.—To the best of my knowledge, information, and belief, the above-written inventory contains a full, true, and correct account of all the property, movable and immovable, and rights and credits of the said _____, deceased, so far as I have been able with due diligence to ascertain the same.

2.—I have made a careful estimate and valuation of all the property, the particulars of which are set forth and contained in the said inventory, and to the best of my judgment and belief the several sums respectively set opposite to the several items in the said inventory fully and fairly represent the present values of the items to which they are so respectively set opposite.

No. 17.—Form of *Caveat*.

(See Sections 18, 34.)

Civil Procedure
Code, Form
No. 93.

In the District Court of _____.

Let nothing be done in the estate and effects of _____, late of _____, deceased, who died on the _____ day of _____, 19____, at _____, unknown to (Mr. _____, of _____, Proctor for parties having interest, or as the case may be).

(Signed by the party and dated.)

No. 18.—Form of Application for Certificate of Exemption.

(Section No. 66.)

In the matter of the estate of *A. B.*, deceased.I, *C. D.*, of _____, make oath and say as follows :1.—The said *A. B.*, of _____, died at _____ on the _____ day of _____, 19____.2.—I am (widow, son, &c., as the case may be) of the said *A. B.*

3.—His other next of kin are :

(1) _____.

(2) _____.

(3) _____, &c.

4.—The property left by the said *A. B.* and its value are truly stated on the back hereof.

5.—The value of the said estate does not amount to one thousand rupees.

6.—I claim a certificate of exemption from duty with respect to the said estate.

(Signed) _____.

Sworn before me this _____ day of _____, 19____.

(Signed) _____.

ENDORSEMENT.

List of Property left by *A. B.*, of _____.

Estimated value of deceased's estate	Immovable Property.	Rs. c.
	(1) _____ ..	..
	(2) _____ ..	..
	(3) _____ ..	..
	(4) _____ ..	..
	(5) _____ ..	..
	(6) _____ ..	..
	(7) _____ ..	..
	<i>Movable Property.</i>	
	(1) Household furniture ..	..
	(2) Jewellery ..	..
	(3) Cattle, &c. ..	..
	(4) Cash ..	..
	(5) Debts due to the estate ..	..
	Total ..	_____
	Deduct debts due on notarial bonds, if known ..	_____
	Nett Total ..	_____

No. 19.—Form of Certificate of Exemption.

(Section No. 65.)

In the matter of the estate of *A. B.*, deceased.

The value of the estate of *A. B.*, of _____, deceased, who died at _____ on the _____ day of _____, 19____, having been sworn as consisting of the properties enumerated in the schedule on the back hereof, and as being less than one thousand rupees value, a certificate of exemption from duty is hereby granted in respect of the said estate.

The _____ day of _____, 19____.

(Signed) _____.

District Judge.

ENDORSEMENT SCHEDULE.

Property said to be comprised in the Estate of A. B.,
Deceased.

Estimated value of deceased's estate	<i>Immovable Property.</i>		Rs.	c.
	(1)	_____ ..	..	..
	(2)	_____ ..	..	..
	(3)	_____ ..	..	..
	(4)	_____ ..	..	..
	(5)	_____ ..	..	..
	(6)	_____ ..	..	..
	<i>Movable Property.</i>			
	(1)	Household furniture ..	..	..
	(2)	Jewellery ..	..	..
	(3)	Cattle, &c. ..	..	..
	(4)	Cash ..	..	..
	(5)	Debts due to estate ..	..	..
	Total ..		..	..
	Deduct debts due on notarial bonds, if known ..		..	..
Nett Total ..		..	..

No. 20.—Appraisal Report on Estate of _____, of _____ Village, in _____ Pattu.
(See Section 66.)

Name and Situation of Land and Shares owned by Deceased where he did not own the whole.	Probable Extent in Acres.	Value of Soil.	Description of Buildings and Share owned by Deceased.	Value of Buildings.	Description of Land and Plantations, giving Number and Age of more important Trees, Coconut, Jak, &c.	Value of Plantations.	Total Value of Deceased's Share.	Rs.	c.	Carried forward ..

(Continued.)

Rs. c.

Brought forward
Movable Property.

(1) Household furniture, &c.	..	..
(2) Jewellery	..	..
(3) Cattle	..	..
(4) Cash	..	..
(5) Insurance	..	..
(6) Debts due to estate, &c.	..	..
(7) Stock in trade in boutique, &c.	..	..
	Gross Total	..
Debts due on notarial bonds	..	..
	Nett Total	..

No. 21.—Form of Notice to next of Kin.

(See Section 74.)

Nota.

To the next of kin of _____ of _____, deceased.

Take notice that if the deceased has left any immovable property, and if the value of his estate is one thousand rupees or more, you should apply to the District Court for letters of administration.

If the deceased has left any immovable property, but the value of his estate is less than one thousand rupees, you should apply to the District Court for a certificate of exemption.

If the deceased has left a will, you should prove it in the District Court.

Take notice that unless you do so title does not pass to you, and you cannot mortgage, lease, or sell any of the deceased's property, and if dispossessed cannot sue in any court to recover it.

Forms of application for certificates of exemption with all necessary directions may be obtained from the District Court or from any Court of Requests, Police Court, or Justice of the Peace.

(Signed) _____,
Registrar.

No. 22.—Monthly List to be furnished by the District Court to the Kachcheri of Applications for Administration during the Month _____, 19—.

(See Section 75.)

No. of Testamentary Case.	Name of Deceased, Village and Patti, and Date of Death.	Names, Residence, and Relationship to Deceased of Applicant and Respondents.	Whether the Deceased's Marriage was in community.	Total Value of Im-movable Pro-erty.	Total Value of Movable Pro-erty.	Total Value of Debts due to Estate, Cash, Insur-ance, &c.	Deduct Debts due by Estate on Notarial Bonds.	Total Value of Estate on which Duty is due.	Rs. c.
				Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.

No. 23.—Monthly List to be furnished by the District Court to the Kacheheri of Applications for Certificates of Exemption for the Month of _____, 19—.

(See Section 75.)

No. of Application.	Name of Deceased, Village and Pattu, and Date of Death.	Names, Residence, and Relationship to Deceased of Applicant and Respondents.	Whether the Deceased's Marriage was in community.	Total Value of Immovable Property.	Total Value of Movable Property.	Total Value of Debts due to Estate, Cash, Insurance, &c.	Deduct Debts due by Estate on Notarial Bonds.	Total Value of Estate on which Duty is due.
				Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.

No. 24.—Form of Citation.

(See Section 89.)

(Title.)

To _____.

Civil Procedure
Code, Form
No. 111.

Whereas one A. B. (executor of the last will of _____, deceased, or administrator of the estate and effects of _____, deceased), has presented a petition to this court praying that you may be cited to attend an inquiry whether (*set out shortly the substance of the application*): And whereas the said A. B. has satisfied this court that there are reasonable grounds for such inquiry: You are hereby cited and required personally to be and appear before this court on the _____ day of _____, 19—, at _____ o'clock of the forenoon, then and there to answer (*set out what the subject of the inquiry is*).

(Signed, &c.) _____,
District Judge.

No. 25.—Form of Order to be annexed to, or endorsed on, the preceding.

(See Section 89.)

(Title.)

Civil Procedure
Code, Form
No. 112.

On reading and filing the petition of *A. B.*, dated _____ (and on reading the affidavit, &c., and hearing the evidence, &c.): It is ordered that a citation returnable on the _____ day of _____, 19____, at _____ o'clock of the forenoon, do issue to _____ requiring him to (*set out as in last form*).

(Signed, &c.) _____,

District Judge.

26 a.—Form of Assent by Executor to vesting of Property devised by Will.

(See Section 104.)

I, _____ of _____, being the executor of the will of _____ (testator), deceased, dated the _____ day of _____, and proved by me in the District Court of _____, hereby assent to the devise to _____ (devisee) therein contained (*describe the subject-matter of the devise in terms of the will*).

In witness whereof I, as executor as aforesaid, do set my hand hereto and to another of the same tenor as these presents in _____ this _____ day of _____, 19____, in the presence of _____, Judge (*or Secretary*) of the said court.

(Signed) _____.

I, _____, Judge (*or Secretary*) of the District Court of _____, do hereby certify that the above assent, having been duly read over by (*or duly read over and explained to*) _____, therein named, and was signed in duplicate by the said _____ in my presence.

(Signed, &c.) _____,

District Judge (*or Secretary*).

No. 26.—Form of Conveyance of Executor or Administrator.

(See Section 104.)

I, *A. B.*, executor of the last will and testament of *C. D.*, deceased (*or administrator of the estate and effects of C. D.*, deceased), do hereby, in terms of an order of court dated the _____ day of _____, 19____, made in testamentary (administration) proceedings bearing No. _____ of the District Court of _____, grant, convey, transfer, assign, set over, and assure unto *E. F.*, a devisee under the said will (*or an heir of the said C. D.*, deceased), (subject to the terms and conditions set forth in the schedule hereunder), the right, title, and interest held, possessed, and enjoyed at the date of his death by the said *C. D.*, in and to the following property, to wit (description of property):

To have and to hold the said property hereby conveyed and every part thereof unto him the said *E. F.*, his heirs, executors, administrators, and assigns, for ever.

In witness whereof I, as executor (*or administrator*) as aforesaid, do set my hand hereto and to another of the same tenor as these presents in _____ this _____ day of _____, 19____, in the presence of *G. H.*, Judge (*or Secretary*), of the said court.

(The Schedule.)

(*Insert terms and conditions, if any, imposed by the court or by the will.*)

I, *G. H.*, Judge (*or Secretary*), of the District Court of _____, do hereby certify that the above conveyance having been duly read over by (*or duly read over and explained to*) *A. B.* therein named was duly signed in duplicate by the said *A. B.* in my presence.

(Signed, &c.) _____,

District Judge (*or Secretary*).

No. 27.—Form of Affidavit of Failure to return Inventory.

(See Section 109.)

(Formal part as in No. 3.)

1.—(*Allege residence and interest in estate.*)

2.—That (*probate was granted of the will or letters of administration issued of the estate and effects*) of _____, deceased, by a decree of this court dated, &c., to one _____ of _____.

3.—That more than _____ has elapsed since the said appointment, and the said _____ has not returned any inventory of the property and effects of the said _____ (*or any sufficient inventory, &c., specifying the defects*).

(Formal conclusion.)

Civil Procedure
Code, Form
No. 113.

No. 28.—Form of Petition for Payment of Debt.

(See Section 112.)

*(Title.)*Civil Procedure
Code, Form
No. 114.

The petition of A. B. sheweth as follows :

1.—Your petitioner resides at _____ in _____, and is a creditor of the estate of _____, deceased; late of _____, (probate of whose will was or letters of administration to whose estate and effects were) duly issued to one _____, of _____, by a decree of this court dated the _____ day of _____, 19—, and more than twelve months have elapsed since such (grant or letters).

2.—That the said _____ has filed an inventory of the property and effects of the said _____.

3.—(*Allege claims, as, e.g. :*) On the _____ day of _____, 19—, your petitioner in an action brought by him in the _____ court of _____ against the said _____ as (executor or administrator) of the said _____, upon a debt then justly due to him from the estate of the said deceased, recovered a judgment duly given by the said court against the said _____ as such (executor, &c.) for the sum of _____ rupees. And no part of the same has been paid (*except* _____).

4.—Your petitioner is informed and believes that the said _____ has sufficient assets in hand applicable to the payment of your petitioner's claim (or to pay one _____ thereof), and that the same can be so applied without injuriously affecting the rights of others entitled to priority or equality of payment with your petitioner.

5.—Your petitioner has applied to the said _____ for payment of his said claim, and the same has not been paid.

Wherefore, &c., that a decree be made requiring the said _____ to (render an account of his proceedings and) pay the said claim, and that the said _____ be cited to show cause why he should not pay the same.

(Conclusion.)

No. 29.—Form where Applicant is a Legatee.

(See Section 112.)

Civil Procedure
Code, Form
No. 115.

Proceed as in last preceding form, substituting in paragraph 1: "Legatee named in the will of _____" for "creditor of the estate of _____"; and add "and by the said will a legacy of _____ rupees was bequeathed to your petitioner." Omit paragraph 3. In paragraphs 4 and 5 for "claim" substitute "legacy (or distributive share)"; and in the prayer make the corresponding alterations.

No. 30.—Form of Citation on preceding Applications.

(See Section 112.)

(Title.)

Proceed as in No. —. The citation is "to show cause why a decree should not be made directing you as (executor or administrator, &c.) of _____, deceased, to pay the claim of _____, against the estate of the said deceased in the sum of rupees _____."

No. 31.—Form of Decree on the preceding Citation.

(See Section 113.)

*(Title.)*Civil Procedure
Code, Form
No. 117.

A. B., of _____, having presented to this court a petition dated the _____ day of _____, 19—, asking that a decree be made herein directing the said _____ (executor, &c.) to pay (state claim; and if petition was by a creditor, add statement of issue and return of service of citation). And it having been proved to the satisfaction of this court by the said petition and the affidavit of, &c., that the assets of the said deceased in the hand of the said _____ exceed the debt (and where the petitioner is a creditor: and that the petition may be granted without injuriously affecting the rights of others entitled to priority or equality of payment or satisfaction): It is decreed that the said _____, the (executor, &c.) of the said _____, deceased, pay to the said A. B. (the full) amount of his said claim, to wit, _____ rupees, with interest thereon at _____ per cent. per annum from the _____ day of _____, 19—, the whole amounting to _____ rupees.

(Signed) _____,
District Judge.

No. 32.—Form of Account to be filed by Executor
or Administrator.

(See Section 116.)

(Title.)

1.—I, A. B., of _____, do hereby render, the following account of my proceedings as executor of the will (or administrator of the estate) of _____, late of _____, deceased.

2.—I hereby solemnly and sincerely swear that the said account is true and complete.

(The Schedule.)

3.—(Explain any parts in the account that require explanation.)

Sworn before me this _____ day of _____, 19—.

Schedule A : Property sold : _____.

Schedule B : Debts collected : _____.

Schedule C : Moneys otherwise realized : _____.

Schedule D : Debts written off as irrecoverable : _____.

Schedule E : Value of property written off as irrecoverable : _____.

Schedule F : Value of property remaining unsold : _____.

Schedule G : Debts paid : _____.

Schedule H : Legacies satisfied in money : _____.

Schedule I : Value of legacies satisfied in kind (state value of each property disposed of) : _____.

Schedule J : Shares distributed in money : _____.

Schedule K : Value of shares distributed in kind (stating value of each property disposed of) : _____.

Schedule L : Funeral expenses : _____.

Schedule M : Expenses of administration : _____.

Schedule N : Compensation of executor or administrator : _____.

Schedule O : Moneys otherwise disposed of : _____.

Schedule P : Value of properties otherwise disposed of : _____.

Schedule Q : Moneys remaining undisposed of : _____.

Schedule R : Value of property remaining undisposed of : _____.

Summary.

	Rs. c.		Rs. c.
(1) Property sold (as per Schedule A) ..		(1) Debts paid (as per Schedule G) ..	
(2) Debts collected (as per Schedule B) .		(2) Legacies satisfied in money (as per Schedule H) ..	
(3) _____ ..		(3) _____ ..	
(4) _____ ..		(4) _____ ..	
(5) _____ ..		(5) _____ ..	
(6) _____ ..		(6) _____ ..	
(7) _____ ..		(7) _____ ..	
(8) _____ ..		(8) _____ ..	
(8) _____ ..		(8) _____ ..	
(9) _____ ..		(9) _____ ..	
Total ..		Total ..	

No. 33.—Form of Summons for Directions.

(See Section 146.)

in the matter of the administration of the estate of _____, deceased.

Between

A. B., _____, applicant.

And

C. D., _____.

E. F., _____, &c., respondents.

Let _____, of _____, appear before this court on the _____ day of _____, 19—, at _____ o'clock of the forenoon, for the hearing of an application of _____ of _____, who claims to be (state capacity claimed) for the determinations of the following questions :

(State the questions.)

By order of the court,

The _____ day of _____, 19—, _____ (Signed) _____ Secretary.

Note.—If the respondents do not appear, such order will be made and such proceedings taken as the court may deem expedient.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, April 17, 1914.

R. E. STUBBS,
Colonial Secretary.

Statement of Objects and Reasons.

1. This Ordinance is in the nature of a consolidating Ordinance, and is in effect an Administration Code. It comprises—

- (a) Chapters XXXVIII., LIV., and LV. of the Civil Procedure Code re-arranged and re-drafted (referred to in the margin as Civil Procedure Code with the number of the section).
- (b) The draft Bill prepared by Mr. Justice Pereira, as Acting Attorney-General, published in the official Gazette (referred to in the margin as "P" with the number of the section).
- (c) Certain new proposals (referred to in the margin as "New").

2. It has been thought desirable, in view of the far-reaching nature of the changes in the Civil Procedure Code proposed to be effected by the draft Bill above referred to; the unsatisfactory arrangement of the chapters of the Code dealing with the subject of administration of estates; and the desirability of detaching special subjects of this nature from the general Code of Civil Procedure, to represent the whole subject in a single Ordinance, and the above Bill has accordingly been drafted.

3. It may be convenient to classify the amendments of the law which the Bill proposes to introduce under four heads:—

- (a) Proposals relating to the vesting of title upon death.
- (b) Proposals for the protection of revenue.
- (c) Proposals for the tightening of the control of the court over administrations, and the acceleration and simplification of procedure with a view to doing away with the scandal of long drawn-out administrations.
- (d) Proposals aiming at the evil of minute subdivision of immovables.

These four classes of proposals will now be considered separately.

4. *Vesting of Title.*—The object of the proposals under this head is to deal with the situation created by the decision of the Supreme Court, *Silva v. Silva* (1907) 10, N. L. R., 234, according to which property vests on death both in the administrator and the heirs, in the administrator so far as is necessary for the administration, and in the heirs subject to the rights of the administrator. It is generally felt that the situation created by the decision is intolerable, and accordingly the Bill contains proposals which would establish a uniform scheme of devolution. The principle adopted is that of the law of England with reference to personality, according to which, in cases of intestacy, all personal property vests in the court of probate until letters of administration have been granted. The law of England in this respect has in recent years been greatly affected by a Land Transfer Act, 1897. In that Act real estate on the death of the owner, notwithstanding any will that he may have made, vests in his executor or administrator, and title only passes to the heirs or devisees by conveyance, assent, or delivery. The English distinction between real and personal property does not exist in Ceylon. It is accordingly proposed that in all cases alike on the death of any person, whether he leaves a will or dies intestate, all his property, movable or immovable, shall vest in the District Court until probate of his will or letters of administration have been granted, and upon such grant the property shall vest in the executor or administrator, as the case may be, as from the date of the death. The heirs or devisees must thus derive title through the executor or administrator, and a single unmistakable chain of title is thus created. (Part II., Chapter I.)

5. A difficulty, however, arises with respect to estates of less than Rs. 1,000 in value. Under the law of Ceylon administration is not compulsory in these cases. The question, therefore, arises: What is to be done with reference to these estates? Two alternatives are possible. The first is to declare that all intestate estates below this limit shall on death vest in the heirs according to their respective shares. What, however, would be the effect of such a system? Its effect would be that, with regard to all intestate estates on the margin of this limit, no one would be able to tell whether they were in fact vested in the heirs or in the court. It would consequently be impossible for any one with any confidence to purchase lands comprised in such estates, and any action with respect to any such lands would be liable to be hung up by the dilatory plea that the estate was more than Rs. 1,000 in value, and was consequently vested in the court. In Mr. Justice Pereira's Bill it was provided that where the estate had been dealt with by the heirs, on the supposition that it was less than Rs. 1,000 in value, it should be conclusively presumed to be so after the lapse of five years. This, while it mitigated the evil, did not remedy it, inasmuch as it left all estates of this description in a position of uncertainty for a period of five years.

6. It remains to consider the second alternative, which is the one adopted in the present Bill. The Bill creates a system of "certificates of exemption." (Part III., Chapter II.) Under this system, if it is claimed by the next of kin of any deceased intestate that his estate is less than Rs. 1,000 in value, he is required to take out a certificate of exemption from duty. Upon the issue of this certificate, the property is divested from the court and is vested in the heirs. The procedure is as follows:—Upon a death being registered, the Registrar serves a simple notice upon the next of kin explaining the situation. Application for the certificate is made on a simple form printed in the vernaculars. The certificate in most cases is issued as a matter of form, but would be liable to be set aside within one year. Once issued, if not so set aside, it will be conclusive as to the value of the estate.

7. There are certain obvious objections to this proposal. It imposes an additional burden upon the poorest class of villagers, and entails their applying to a District Court which may be at a considerable distance from their homes. It may necessitate professional assistance, and involve them in expenses which they cannot afford. To meet these objections endeavours have been made to make the procedure as simple and inexpensive as possible. All applications must be made on a simple printed form (clause 66, form 18). This form simply states that an estate of Rs. 1,000 in value contains a brief inventory of the property and an affidavit. The affidavit can be sworn before any Commissioner of Requests, Police Magistrate, or Justice of the Peace, and may be forwarded to the District Court through these channels (clause 67). A similar certificate of exemption can be forwarded to the applicant in the same manner. The necessary proceedings are exempt from stamp duty if action is taken promptly (clause 72). If necessary, it could be provided that if the case was put into the hands of a proctor,

he should only be allowed to charge a specified fee for his services. Under the circumstances, it is submitted that the poor villager will not be put to an appreciable hardship, and the certificate of exemption will be of great service to him as a sort of document of title.

8. On the other hand, it may be urged that the people are so poor, and their reluctance to comply with legal formalities so great, that, however simple and inexpensive the procedure may be, they will refuse to avail themselves of it, and in consequence a great portion of the smaller cultivators of land will remain without proper titles to their lands. If this state of affairs were to come about, it would be an undoubted evil; but the situation seems to require a choice of evils. Under the circumstances, it has been decided to put forward the two alternatives with the above explanation, so that the matter might be fully discussed before any change is made.

9. *Protection of Revenue.*—From the point of view of the revenue, protection is required against two abuses:—

- (a) Improper claims to exemption; and
- (b) Undervaluations.

To enable the Revenue Officers to deal with these two abuses, it is necessary that the Kachcheri should be kept fully informed of all proceedings in the court. The procedure with regard to improper claims to exemption will work as follows:—The Revenue Officers through their subordinate headmen will keep themselves informed of all cases in which the estate of the deceased person is understood to be of more than Rs. 1,000 in value. The court will send to the Kachcheri copies of all claims to certificates of exemption. If any of these claims relate to estates which have been reported as being over Rs. 1,000 in value, these will be challenged, the others being granted as a matter of course. The Revenue Officer may, however, at any time within one year, apply for the cancellation of certificate of exemption, if he subsequently receives information that the certificate was improperly granted. It was originally proposed to embody in the Bill clauses regulating the manner in which the Revenue Officers should inform themselves of the circumstances of each case through their subordinates, but it has been thought better to leave this to be dealt with by departmental orders.

10. With regard to undervaluations, the Government Agent is empowered to intervene at any stage in testamentary proceedings for the purpose of challenging the completeness of the inventory or the accuracy of the valuation (clause 78). He is further empowered, in cases where administration is evaded altogether, to take out a summons calling upon the next of kin to show cause why letters of administration should not be issued to one of them or to some suitable person (clause 77).

11. *Control of Administration by Court.*—The proposals under this head are all taken from Mr. Justice Pereira's Bill, already published in the *Gazette*, and may be briefly summarized as follows:—

(a) The court itself is to undertake the collection of debts under special summary procedure, under which all persons said to be indebted to the estate are to be summoned into court, and called upon to admit or deny the debt, a judgment being thereupon entered up for debts admitted, and arrangements made for the trial of disputed claims (Part IV., Chapter III.)

(b) No executor or administrator is to commence an action without the sanction of the court (clause 84), and whenever possible claims by the estate involving litigation are to be assigned to the heirs to enforce. This is to prevent executors embarking upon lengthy litigation, and meanwhile retaining the administration of the estate in their own hands and hanging up the final distribution of the shares.

(c) With the same object, trusts committed to executors are to be severed from the ordinary debts of administration, if the trusts cannot be carried out within a year (clause 119).

(d) The executor or administrator is brought under stricter control. He cannot compromise claims without sanction (clause 86); he may be ordered to pay any particular debt or sell any particular property forthwith. He must register his address (clause 142), attend whenever summoned (clause 143), and pay costs necessitated by his defaults (clause 144).

(e) Finally, a most simple and expeditious procedure is provided for what is known as the judicial settlement of an estate. (Part IV., Chapter VII.)

12. *The Minute Subdivision of Immovables.*—The object of the proposals of the Bill (Part IV., Chapter VIII.) is to take advantage of the opportunity afforded by the administration of the estate and allow the court to intervene with a view to check this evil. The death of the owner of immovable property is an appropriate moment for the distribution of his immovables specifically among his heirs. Unfortunately the present practice seems to be for the heirs to take their shares undivided and to initiate no steps for a specific distribution. The Ordinance allows the Judge, either on the request of one of the heirs or on his own motion, to insist on such a distribution being carried out. The Judge is left a discretion on the matter, and at present it would probably be difficult to lay down rules according to which this discretion should be exercised, but it is thought that the powers entrusted to him will, at any rate, tend in the direction of encouraging the allocation of particular lots to particular persons. By clause 135 the Judge is further given a power to insist upon the sale of immovable property, instead of allowing it to pass to the heirs in minute undivided shares.

13. *Minor Amendments.*—These are indicated, wherever possible, by notes in the margin of the respective clauses. Special attention may be called to the following:—

(a) Administration, and not probate, is made the centre of the Bill, the former being the rule in Ceylon, and the latter the exception.

(b) Provision is made for recognizing probates and letters of administration granted by courts of probate in England (clauses 23 and 41). This will enable the Colonial Probates Act, 1892, to be applied to Ceylon, and will thus enable those administering the estates of persons who died in Ceylon leaving part of their property in England to proceed to the administration of the English property upon simple production of the Ceylon probate or letters.

(c) Certain modifications of procedure have been introduced in regard to "small estates," i.e., the estates between Rs. 1,000 and Rs. 2,500, which are already subject to a special stamp duty, with a view to the simplification and cheapening of their administration. (See Part V.)

MINUTE.

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

An Ordinance to amend "The Mines and Machinery Protection Ordinance, 1896."

Preamble.

WHEREAS it is expedient to amend "The Mines and Machinery Protection Ordinance, 1896," in certain particulars: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Mines and Machinery Protection (Amendment) Ordinance, No. of 1914."

Substitution of new section 3.

2 For section 3 of the principal Ordinance the following section shall be substituted:

Notice of intention to open mine.

3 (1) If any person intends to open, work, or use any mine, he shall, one calendar month before commencing to open, work, or use such mine, furnish the Government Agent of the province within which such mine is situated with a declaration in writing containing the following particulars:

- (a) The name and boundaries of the land in which the mine is to be opened, worked, or used;
- (b) The nature of the right of the applicant to open, work, or use the mine on such land; and
- (c) The name or names and residence or residences of himself and of the person or persons under whose management or superintendence the mine is intended to be opened, worked, or used.

(2) If such person ceases to have an interest in such mine, or if any person or persons other than those named in the declaration shall be entrusted with the management or superintendence of such mine, such person shall forthwith make a further declaration thereof to the Government Agent.

Substitution of a new sub-section (c) for sub-section (c) of section 4 of the principal Ordinance.

3 For sub-section (c) of section 4 of the principal Ordinance the following sub-section shall be substituted:

- (c) Keeping mines, factories, and their surroundings in a clean and sanitary condition.

Substitution of a new sub-section (h) for sub-section (h) of section 4 of the principal Ordinance.

4 For sub-section (h) of section 4 of the principal Ordinance the following sub-section shall be substituted:

- (h) The reporting to the Government Agent of the province, and to the Inspector of Mines and Factories, by the owner, superintendent, manager, or person in charge of any mine or factory, of any loss of life or any personal injury to any person employed in any mine or factory by reason of any accident or mishap at such mine or factory; and

By His Excellency's command,

R. E. STUBBS,
Colonial Secretary.

Colonial Secretary's Office,
Colombo, April 27, 1914.

Statement of Objects and Reasons.

THE object of the Draft Bill is—

(1) To extend the period of notice required for opening or working a mine. At present this period is one week, and this is found inadequate in practice to allow the Government to take the necessary administrative measures. The period is therefore extended to one month.

(2) To give to the Governor in Executive Council power to make rules—

- (a) For keeping the surroundings of mines and factories in a clean and sanitary condition, and also
- (b) For the sending in of reports to the Inspector of Mines and Factories of any loss of life or any personal injury to any person in a mine or factory by reason of any accident or mishap at such mine or factory. At present only the sending of such notices to the Government Agent is contemplated.

Attorney-General's Chambers,
Colombo, April 8, 1914.

ANTON BERTRAM,
Attorney-General.

MINUTE.

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

An Ordinance further to amend "The Police Ordinance, 1865."

- Preamble.** WHEREAS it is expedient further to amend "The Police Ordinance, 1865": 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 Police (Amendment) Ordinance, No. of 1914."
- Repeal.** 2 Section 73 A added to the principal Ordinance by "The Police (Amendment) Ordinance, No. 17 of 1912," is hereby repealed.
- Amendment of section 73.** 3 The following new paragraph shall be added to section 73 of the principal Ordinance:
- For the purposes of this section an article shall be deemed to be in the possession of a person if he knowingly has it in the actual possession of any other person, or in any houses building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit or for the use or benefit of another.
- New section 73 A.** 4 The following section shall be inserted in the principal Ordinance immediately after section 73:
- 73 A (1) Every person who—
- (a) Buys, exchanges, takes in pawn, detains, or receives from a police officer or any person acting on his behalf on any pretence whatever; or
- (b) Solicits or entices any police officer to sell, exchange, pawn, or give away; or
- (c) Assists or acts for a police officer in selling, exchanging, pawning, or making away with any Government property—
- shall, unless he proves either that he acted in ignorance of the same being Government property or of the person with whom he dealt being or acting for a police officer, or that the same was sold by order of the Government or some competent authority, be liable to a fine not exceeding one hundred rupees, or to imprisonment not exceeding three months.
- (2) A person found committing an offence against this section may be apprehended without a warrant, and it shall be lawful for any police officer, authorized in writing in that behalf by a Superintendent or Assistant Superintendent of Police, to search without a warrant any place where he has reasonable cause to suspect there is any property with respect to which such an offence has been committed.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, April 27, 1914.

R. E. STUBBS,
Colonial Secretary.

Statement of Objects and Reasons.

1. The object of this Ordinance is to correct certain mistakes in Ordinance No. 17 of 1912.
2. The changes effected are as follows :—
 - (a) Express exception is made of cases in which a person buys Government property from a police officer without knowing that the property in question was Government property or that the person with whom he was dealing was a police officer, and of cases where the property is sold by order of the Government or by a competent authority.
 - (b) Sub-section (3) of section 73 A in the Ordinance of 1912 is transferred to its proper place as an additional paragraph of section 73.

Attorney-General's Chambers,
Colombo, March 30, 1914.

ANTON BERTRAM,
Attorney-General.

NOTICES IN TESTAMENTARY ACTIONS.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Goods and Chattels of Jurisdiction. the late Frances Lily Rajapakse, late of No. 4,854. the "Gatherum," de Saram place, Colombo, deceased.

Tudor Diedrick Nathaniel de Abrew Wijegoone-ratne Rajapakse of the "Gatherum," de Saram place, Colombo Petitioner.

And

(1) Lily Beatrice Shiela Rajapakse, (2) Tudor Lancelot Carel Rajapakse, (3) Hubert Harold Sampson Rajapakse, all of the "Gatherum," de Saram place, Colombo, (4) Wilfred Martin Rajapakse, of Negombo Respondents.

THIS matter coming on for disposal before Thomas Forrest Garvin, Esq., Additional District Judge of Colombo, on April 8, 1914, in the presence of Messrs. Vanderstraaten and Vanderstraaten, Proctors, on the part of the petitioner above named; and the affidavit of the said petitioner dated March 3, 1914, having been read:

It is ordered that the petitioner be and he is hereby declared entitled, as the husband of the above-named deceased, to have letters of administration to her estate issued to him, unless the respondents above named or any other person or persons interested shall, on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

THOMAS F. GARVIN,
Additional District Judge.
April 8, 1914.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of Jurisdiction. Mohandiramgey Abraham Rodrigo, late No. 4,864. of Kotikawatta, deceased.

Kiriellagurananselagey Ano Perera of Kolonnawa. Petitioner
And

(1) Mohandiramgey Eugene Rodrigo, (2) Kiriella-gurananselagey Hendrick Perera of Kolonnawa Respondents

THIS matter coming on for disposal before Thomas Forrest Garvin, Esq., Additional District Judge of Colombo, on May 1, 1914, in the presence of Mr. E. G. Jayewardene, Proctor, on the part of the petitioner above named; and the affidavit of the said petitioner dated April 30, 1914, having been read:

It is ordered that the petitioner be and she is hereby declared entitled, as the widow of the above-named deceased, to have letters of administration to his estate issued to her, unless the respondents above named or any other person or persons interested shall, on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

T. F. GARVIN,
Additional District Judge.
May 1, 1914.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of Jurisdiction. Mohamed Haniffa Mohamed Saboor of No. 4,865. the Fort of Galle, deceased.

Pattu Muttu, wife of Abubakar Mudaliyar Sinne Lebbe Marikar of the Fort of Galle Petitioner.

And

(1) Macan Markar Haseena of Sea View, in Galle,
(2) Packer Mohideen Mahameed of Talupitiya in Galle Respondents.

THIS matter coming on for disposal before Thomas Forrest Garvin, Esq., District Judge of Colombo, on May 4, 1914, in the presence of Mr. Ismail, Proctor, on the part

of the petitioner above named; and the affidavit of the said petitioner having been read:

It is ordered that the petitioner be and she is hereby declared entitled, as the sister of the above-named deceased, to have letters of administration to his estate issued to her, unless the respondents above named or any other person or persons interested shall, on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

THOMAS F. GARVIN,
District Judge.
May 4, 1914.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Last Will and Testament of John Gregory Perera Amarasakera Siriwardene of Ragama, deceased. No. 4,875.

(1) Francis de Zoysa of Borella, and (2) John Fingner Perera of Ragama Petitioners.

THIS matter coming on for disposal before K. Balasingham, Esq., Additional District Judge of Colombo, on May 13, 1914, in the presence of Messrs. Vanderstraaten and Vanderstraaten, Proctors, on the part of the petitioners above named; and the affidavit (1) of the 2nd petitioner above named dated February 11, 1914, and (2) of Don William Ratnasakera and Heratnudiyansele Ranganham Herambuwe dated January 30, 1914, having been read:

It is ordered that the last will of John Gregory Perera Amarasakera Siriwardene of Ragama, deceased, of which the original has been produced and is now deposited in this court, be and the same is hereby declared proved; and it is further declared that the petitioners are the executors named in the said will, and that they are entitled to have probate thereof issued to them accordingly, unless any person or persons interested shall, on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

K. BALASINGHAM,
Additional District Judge.
May 13, 1912.

In the District Court of Kalutara.

Order making absolute Order Nisi declaring Will proved, &c.

Testamentary In the Matter of the Last Will and Testament of Clarence Pedro Fonseka of No. 881. Walana, deceased.

THIS matter coming on for final determination before T. B. Russell, Esq., District Judge of Kalutara, on April 27, 1914, in the presence of Mr. Solomon Fernando, Proctor, on the part of the petitioner Leanora Fonseka of Walana; and the affidavit of the said petitioner dated March 31, 1914, having been read:

It is ordered that probate of the last will and testament of Clarence Pedro Fonseka of Walana, deceased, be issued to Leanora Fonseka of Walana, unless any party interested shall show sufficient cause to the contrary on or before May 28, 1914.

T. B. RUSSELL,
District Judge.
April 27, 1914.

In the District Court of Kalutara.

Order Nisi.

Testamentary In the Matter of the Estate of the late Jurisdiction. Don Peter Joseph Warnakula of Paiyagalala, deceased. No. 885.

THIS matter coming on for disposal before T. B. Russell, Esq., District Judge of Kalutara, on April 23, 1914, in presence of Mr. W. D. Martin, Proctor, on the part of the petitioner Warnakula-arachchirallage Don Gregory of Paiyagalala; and the affidavit of the said petitioner dated March 16, 1914, having been read:

It is ordered that the petitioner Warnakula-arachchirallage Don Gregory of Paiyagalala be and he is hereby

declared entitled to administer the estate of the said deceased, and that letters of administration do issue to him accordingly, unless any person or persons interested shall, on or before May 29, 1914, show sufficient cause to the satisfaction of this court to the contrary.

April 23, 1914.

T. B. RUSSELL,
District Judge.

In the District Court of Kalutara.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Gunaratne Terunnanse of Magalkanda,
No. 886. deceased.

THIS matter coming on for disposal before T. B. Russell, Esq., District Judge of Kalutara, on April 24, 1914, in the presence of Mr. W. D. Martin, Proctor, on the part of the petitioner Hewadewage Lewis Fernando of Magalkanda; and the affidavit of the said petitioner dated April 7, 1914, having been read:

It is ordered that the petitioner Hewadewage Lewis Fernando of Magalkanda be and he is hereby declared entitled to administer the estate of the said deceased, as purchaser of the property of the said deceased, and that letters of administration do issue to him accordingly, unless the respondent Weeramuni Thimis de Allis of Magalkanda shall, on or before May 29, 1914, show sufficient cause to the satisfaction of this court to the contrary.

April 24, 1914.

T. B. RUSSELL,
District Judge.

In the District Court of Negombo.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Alawaturage Themis Perera of Weediawatta in Negombo, deceased.
No. 1,435 T.

THIS matter coming on for disposal before H. E. Beven, Esq., District Judge of Negombo, on April 2, 1914, in the presence of Mr. Goonewardene, Proctor, on the part of the petitioner Palakuttige Poloris Perera of Weediawatta; and the affidavit of the petitioner dated March 27, 1914, having been read:

It is ordered that the petitioner be and he is hereby declared entitled, as brother-in-law of the deceased above named, to administer the estate of the said deceased, and that letters of administration do issue to him accordingly, unless the respondent Alawaturage Jane Perera of Weediawatta shall, on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

April 2, 1914.

H. E. BEVEN,
District Judge.

In the District Court of Negombo.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Liyanage Gabriel Fernando of Pitipana,
No. 1,437. deceased.

THIS matter coming on for disposal before H. E. Beven, Esq., District Judge of Negombo, on April 7, 1914, in the presence of Mr. Martin de Silva, Proctor, on the part of the petitioner Kariyakarawanage Martha Maria Fernando of Pitipana; and the affidavit of the petitioner dated April 7, 1914, having been read:

It is ordered that the petitioner be and she is hereby declared, as the widow of the deceased, entitled to have letters of administration to the estate of the said deceased husband, unless the respondents,—(1) Liyanage Lucia Fernando, (2) ditto Ilana Fernando, (3) ditto Savari Fernando, minors, by their guardian *ad litem* Liyanage Anthony Francis Fernando of Pitipana—shall, on or before May 26, 1914, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said L. Anthony Francis Fernando be appointed guardian *ad litem* over the said minors for the purpose of this action.

April 7, 1914.

H. E. BEVEN,
District Judge.

In the District Court of Negombo.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Wedamuni Nilamalage Elaris Appu of
No. 1,436. Kandawala, deceased.

THIS matter coming on for disposal before H. E. Beven, Esq., District Judge of Negombo, on April 2, 1914, in the presence of Mr. G. de Zoysa, Proctor, on the part of the petitioner Paliawadana Arachchige Ana Perera of Kandawala; and the affidavit of the petitioner dated March 20, 1914, having been read:

It is ordered that the petitioner be and she is hereby declared entitled, as the mother and an heir of the deceased above named, to administer the estate of the said deceased, and that letters of administration do issue to her accordingly, unless the respondents—(1) W. N. Veronica and minors (2) W. N. Carlinahamy, (3) W. N. Juliana, (4) W. N. Alvinu Appu, (5) W. N. Ceciliansa, (6) W. N. Martinahamy, by their guardian *ad litem* (7) Paliawadana Arachchige Charles Perera, all of Kandawala—shall, on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said Paliawadana Arachchige Charles Perera be appointed guardian *ad litem* over the said minors for the purpose of this action.

April 2, 1914.

H. E. BEVEN,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Rupassarapedigedere Balaya, deceased,
No. 3,044. of Rotaligoda in Yatinuwara.

THIS matter coming on for disposal before Paul E. Pieris, Esq., Acting District Judge, Kandy, on March 26, 1914, in the presence of Mr. Wilfred A. de Silva on the part of the petitioner Sinhalapedigedere Bilindu of Rotaligoda aforesaid; and the affidavit of the said petitioner dated February 3, 1914, having been read:

It is ordered that the petitioner above named be and she is hereby declared entitled to letters of administration to the estate of the said deceased, as his widow, unless (1) Rupassarapedigedere Singa, (2) ditto Pinchi Ukku, (3) ditto Sarana, (4) ditto Samara, (5) ditto Sarangu, (6) ditto Sobanee, all of Kotaligoda, by their guardian *ad litem* Sinhalapedigedere Sandara of Rathmeewala shall, on or before April 30, 1914, show sufficient cause to the satisfaction of this court to the contrary.

March 26, 1914.

PAUL E. PIERIS,
Acting District Judge.

The date for showing cause is extended to May 28, 1914.

April 30, 1914.

P. E. PIERIS,
Acting District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Koralegedara Mutu Menika, deceased, of
No. 3,061. Gurudeniya, in Gandahe korale of Lower
Hewaheta.

THIS matter coming on for disposal before Paul E. Pieris, Esq., Acting District Judge, Kandy, on April 30, 1914, in the presence of Mr. G. E. de Silva, on the part of the petitioner Amunegedera Siyatu of Gurudeniya in Lower Hewaheta; and the affidavit of the said petitioner dated March 19, 1914, having been read:

It is ordered that the petitioner be and he is hereby declared entitled to letters of administration to the estate of

the said deceased, as her husband, unless (1) Amunegedera Kirihamy, (2) Amunegedera Dingiri Amma, both of Gुरुdeniya, by their guardian *ad litem* Jayasundera Mudiaselage Kawrala of Pattiamula, Lower Hewaheta, shall; on or before May 28, 1914, show sufficient cause to the satisfaction of this court to the contrary.

April 30, 1914.

P. E. PIERIS,
Acting District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Thukkawaduge Arnolis Hamy of Trincomalee street, Matale, deceased.
No. 3,060.

Dewasurenderage Karlinahamy of Trincomalee street, Matale..... Petitioner.

Vs.

(1) Thukkawaduge Baby Nona, (2) ditto Samaratinga, (3) ditto Ellen Nona, (4) ditto Agnes, (5) ditto Lily, all of Trincomalee street, Matale, by their guardian *ad litem* Dewasurenderage Ranis Hamy..... Respondents.

THIS matter coming on for disposal before Paulus E. Pieris, Esq., Acting District Judge, Kandy, on March 23, 1914, in the presence of Mr. C. M. D. Jonklaas, Proctor, on the part of the petitioner Dewasurenderagedara Karlina Hamy of Trincomalee street, Matale; and the affidavit of the said Dewasurenderagedara Karlina Hamy dated March 23, 1914, having been read:

It is ordered that the petitioner Dewasurenderagedara Karlina Hamy of Trincomalee street, Matale, be and she is hereby declared entitled to letters of administration to the estate of the late Thukkawaduge Arnolis Hamy, as the widow of the said deceased, unless (1) Thukkawaduge Baby Nona, (2) ditto Samaratinga, (3) ditto Ellen Nona, (4) ditto Agnes, (5) ditto Lily, appearing by their guardian *ad litem* Dewasurenderagedara Ranis Hamy, shall, on or before April 30, 1914, show sufficient cause to the satisfaction of this court to the contrary:

March 23, 1914.

PAULUS E. PIERIS,
Acting District Judge.

The above Order Nisi is extended for showing cause against it on or before May 28, 1914.

April 30, 1914.

P. E. PIERIS,
Acting District Judge.

In the District Court of Matara.

Order Absolute declaring Will Proved, &c.

Testamentary In the Matter of the Last Will and Testa-
Jurisdiction. ment of Weraratna Matara Mahavidanapatabendige Harmanis Appu, deceased, of Wallewela.
No. 2,065.

THIS matter coming on for disposal before J. C. W. Rock, Esq., District Judge of Matara, on March 9, 1914, on the motion of Messrs. Keuneman, on the part of the petitioner Sooriyapatabendige Babunhamy of Wallewela; and the affidavit of the witnesses to the last will of the said deceased dated November 6, 1913, having been read:

It is ordered that the said will of Weraratna Matara Mahavidanapatabendige Harmanis Appu, deceased, dated September 13, 1913, be and the same is hereby declared proved:

It is further declared that the said Sooriyapatabendige Babunhamy is the executor named in the said will, and that he is entitled to have probate of the same issued to him accordingly.

March 9, 1914.

J. C. W. ROCK,
District Judge.

Extended for May, 1914.

In the District Court of Puttalam.

Decree.

Testamentary In the Matter of the Intestate Estate of
Jurisdiction. Uduma Lebbe Marikar Meera Saibo
No. 350. Marikar of Palliwasaturai deceased.

Between

Mohamado Cassim Marikar Magudu Neina Marikar
of Palliwasaturai..... Petitioner.

And

(1) Assen Meera Natchia, widow of the said deceased Meera Saibo Marikar, (2) Sego Assen Natchia, widow of Mohamado Cassim Marikar, (3) Neina Lebbe Marikar Uduma Lebbe Marikar, a minor by his proposed guardian *ad litem*, (4) Mohamado Cassim Marikar Habibu Mohamado Marikar, all of Palliwasaturai..... Respondents.

THIS matter coming on for final determination before W. H. B. Carbery, Esq., District Judge, Puttalam, on April 23, 1914, in the presence of Mr. V. M. Anthonippillai, Proctor for petitioner above named, and Mr. Wilfred A. Muttukumaru, Proctor for the 1st respondent, and Mr. William S. Strong, Proctor for the 4th respondent above named, and the 3rd respondent appearing in person, and the 2nd respondent having died leaving as her sole heirs the petitioner and the 4th respondent above named:

It is hereby ordered in terms of the agreement entered into among the parties above named, and filed of record, that Assen Meera Natchia, the 1st respondent above named, and widow of the late Uduma Lebbe Marikar Meera Saibo Marikar, deceased, be and she is hereby appointed administratrix of the estate of the said deceased, and that Mohamado Cassim Marikar Magudu Neina Marikar, the petitioner above named, be and he is hereby appointed guardian *ad litem* of the minor heir Neina Lebbe Marikar Uduma Lebbe Marikar, the 3rd respondent above named.

April 23, 1914.

W. H. B. CARBERY,
District Judge.

In the District Court of Puttalam.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of
Jurisdiction. Ibrahim Pillai Kuppetaimby, late of
No. 352. Kottantivu in Akkarapattu Puttalam
District, deceased.

Between

Sarah Umma of Kottantivu aforesaid, widow of
Ibrahim Pillai Kuppetaimby, deceased, above
named..... Petitioner.

And

(1) Mohamado Tamby Mohiedeen Pitche, (2) Assenkando Pillai Sego Mohiedeen, both of Kottantivu aforesaid, (3) Pitchetamby, aged about 18 years, (4) Seyado Mohamado, aged about 15, (5) Abdul Azis, aged about 8, (6) Pathumma, aged about 6, (7) Seydath Umma, aged about 5, (8) Mohamado Hanifa, aged about 18 months, all minors, of Kottantivu aforesaid..... Respondents.

THIS matter coming on for disposal before W. H. B. Carbery, Esq., District Judge of Puttalam, on March 17, 1914, in the presence of Mr. W. A. Muttukumaru, Proctor, on the part of the petitioner above named; and the affidavit of the petitioner dated March 4, 1914, and petition dated March 9, 1914, having been read:

It is ordered that the above-named 2nd respondent Assenkando Pillai Sego Mohiedeen, be and he is hereby appointed guardian *ad litem* of the minors (1) Pitchetamby and (2) Seyado Mohamado, who are the 3rd and 4th respondents herein, and that the 1st respondent Mohamado Tamby Mohiedeen Pitche be and he is hereby appointed guardian *ad litem* of the minors (1) Abdul Azis, (2) Pathumma, (3) Seydath Umma, and (4) Mohamado Hanifa, who are the 5th, 6th, 7th, and 8th respondents:

It is further ordered that the above-named petitioner Sarah Umma be and she is hereby declared entitled, as

the widow of the above-named deceased, to have letters of administration to his estate issued to her, unless the respondents or any other person or persons interested shall, on or before May 20, 1914, show sufficient cause to the satisfaction of this court to the contrary.

W. H. B. CARBERY,
Puttalam, March 17, 1914. District Judge.

In the District Court of Chilaw.
Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Assia Umma, deceased, of Maikkulam.
No. 1,038.

THIS matter coming on for disposal before Walter Hugh Bertram Carbery, Esq., District Judge of Chilaw, on April 7, 1914, in the presence of Mr. E. C. S. Storer, Proctor, on the part of the petitioner K. M. Abubakker Marikar of Maikkulam; and the affidavit of the said petitioner dated April 2, 1914, having been read: It is ordered that the petitioner be and he is hereby declared entitled, as eldest son of the deceased, to have letters of administration to her estate issued to him; and it is further ordered 3rd respondent be and he is hereby appointed guardian *ad litem* of the 5th and 6th minor respondents, (1) Mohamed Ismail of Chilaw, (2) Sleha Umma and husband (3) Ahamadu Marikar, (4) Muttachi Umma, (5) Jainambu, and (6) Mohamadu Thamby, minors, shall, on or before May 29, 1914, show sufficient cause to the satisfaction of this court to the contrary.

April 7, 1914. W. H. B. CARBERY,
District Judge.

In the District Court of Chilaw.
Order Absolute.

Testamentary In the Matter of the Last Will and Testa-
Jurisdiction. ment of the late Achchanayake Arach-
No. 1,040. chige Nonohamy, deceased, of Etiyawela.

THIS matter coming on for disposal before Walter Hugh Bertram Carbery, Esq., District Judge of Chilaw, on May 4, 1914, in the presence of Mr. J. A. Corea, Proctor, on the

part of the petitioner Senerat Dassanayake Appuhamillage Don Carolis Appuhamy of Etiyawela; and the joint affidavit of the said petitioner, the Notary Public attesting the will, and of the two witnesses subscribing to the said will, dated April 29, 1914, having been read:

It is ordered that the will of Achchanayake Arachchige Nonohamy, deceased, dated August 23, 1906, be and the same is hereby declared proved:

It is further declared that the said Senerat Dassanayake Appuhamillage Don Carolis Appuhamy is the executor named in the said will, and that he is entitled to have probate of the same issued to him accordingly.

W. H. B. CARBERY,
May 1, 1914. District Judge.

In the District Court of Kegalla.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of
Jurisdiction. Asmadalegedara Ranhami of ~~Qiyasun~~,
No. 436. nata, deceased.

Asmadalegedara Mudalihamy.....Petitioner.

Vs.

(1) Asmadalegedara Punchi Banda, (2) ditto Mutu Menika, (3) ditto Kiri Menika, (4) ditto Dingiri Amma, (5) ditto Herat Banda.....Respondents.

THIS matter coming on for disposal before T. G. Willett, Esq., District Judge of Kegalla, on March 30, 1914, in the presence of the petitioner in person; and the petitioner's affidavit dated March 30, 1914, having been duly read:

It is ordered and declared that the petitioner, as the eldest son of the deceased, is entitled to letters of administration to the estate of the above-named deceased, and that letters of administration be issued to him accordingly, unless the above-named respondents or any person or persons interested shall, on or before May 26, 1914, show sufficient cause to the contrary to the satisfaction of this court.

T. G. WILLETT,
Kegalla, March 30, 1914. District Judge.

NOTICES OF INSOLVENCY.

In the District Court of Colombo.

No. 2,537. In the matter of the insolvency of Sesma Lebbe Samsudeen of New Moor street, Colombo.

NOTICE is hereby given that the above-named insolvent has been allowed a certificate as of the third class.

By order of court,
D. M. JANSZ,
Colombo, May 11, 1914. Secretary.

In the District Court of Colombo.

No. 2,558. In the matter of the insolvency of Vana Mana Selliah Pillai of Fourth Cross street, Pettah, Colombo.

NOTICE is hereby given that the above-named insolvent has been allowed a certificate as of the third class.

By order of court,
D. M. JANSZ,
Colombo, May 12, 1914. Secretary.

In the District Court of Colombo.

No. 2,570. In the matter of the insolvency of Samuel Gordon Ludekens of Wellawatta.

NOTICE is hereby given that the above-named insolvent has been allowed a certificate as of the first class.

By order of court,
D. M. JANSZ,
Colombo, May 11, 1914. Secretary.

In the District Court of Colombo.

No. 2,578. In the matter of the insolvency of Thani Anmai Kandiah Pulle of No. 33, Brass-founder street, Colombo.

NOTICE is hereby given that a meeting of the creditors of the above-named insolvent will take place at the sitting of this court on June 18, 1914, for the grant of a certificate of conformity to the insolvent.

By order of court,
D. M. JANSZ,
Colombo, May 11, 1914. Secretary.

In the District Court of Kandy.

No. 1,587. In the matter of the insolvency of Sona Velaiden Asary.

NOTICE is hereby given that a meeting of the creditors of the above-named insolvent will take place at the sitting of this court on May 29, 1914, for the grant of a certificate of conformity to the insolvent.

By order of court,

C. E. FERDINAND,
Secretary.

May 11, 1914.

In the District Court of Kandy.

No. 1,586. In the matter of the insolvency of Simon Wirakon.

NOTICE is hereby given that a meeting of the creditors of the above-named insolvent will take place at the sitting of this court on May 29, 1914, for the grant of a certificate of conformity to the insolvent.

By order of court,

C. E. FERDINAND,
Secretary.

May 11, 1914.

In the District Court of Kegalla.

No. 39. In the matter of the insolvency of Kekulkotuwege Don Alisandri of Morewatta.

WHEREAS the above-named Kekulkotuwege Don Alisandri of Morewatta has filed a declaration of insolvency, and a petition for the sequestration of his estate has also been filed by Watalabbe Gamarallai Pawlis Appuhamy under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said Alisandri of Morewatta insolvent accordingly, and that two public sittings of the court, to wit, on June 11, 1914, and June 25, 1914, will take place for the said insolvent to surrender and conform to, agreeably to the provisions of the said Ordinance, and for the taking of the other steps set forth in the said Ordinance, of which creditors are hereby required to take notice.

By order of court,

C. P. W. GUNASEKERA,
Secretary.

Kegalla, May 7, 1914.

NOTICES OF FISCALS' SALES.

Western Province.

In the District Court of Colombo.

Ponnahennedige Harry Dias of Panadure Plaintiff.

No. 25,394.

Vs.

(1) Alankarage Pauloe Silva and (2) Alankarage Carolis Silva, both of Ratmalana, in the Palle pattu of Salpiti korale, in the District of Colombo Defendants.

NOTICE is hereby given that on Wednesday, June 17, 1914, will be sold by public auction at the respective premises the following properties ordered to be sold by the order of court, dated December 6, 1911, for the recovery of the sum of Rs. 3,649.30, with interest on Rs. 2,500 at 16 per cent. per annum from August 17, 1907, till October 4, 1907, and thereafter on the aggregate amount of the decree at 9 per cent. per annum till payment in full, and costs of suit, viz:—

At 2.30 P.M.

(1) All that portion of a garden called Thalghawatta, with the buildings and plantations standing thereon, situated at Ratmalana, in the Palle pattu of Salpiti korale, in the District of Colombo, Western Province; bounded on the north by a portion of this garden, on the east by the land of Kaluhath Maria Silva, on the south by a portion of this garden, and on the west by the land of Wellawatte Arachchige people; containing in extent 31 24/100 square perches, which said premises are held by the said Alankarage Pauloe Silva, under and by virtue of deed No. 3,374, dated December 5, 1876, and attested by Mr. D. P. de Alwis of Ratmalana, Notary Public.

At 3 P.M.

(2) All that portion of the garden called Thalghawatta, with the buildings and plantations standing thereon, situated at Ratmalana aforesaid; bounded on the north by Arachchigewatta, on the east by the garden of Polwattege Salman Anthony, on the south by a portion of this garden, and on the west by the garden of Caro Appu; containing in extent 29 53/100 square perches, which said premises are held by the said Alankarage Pauloe Silva, under deed No. 3,375, dated December 5, 1876, and attested by the said D. P. de Alwis, Notary.

At 3.30 P.M.

(3) All that defined $\frac{1}{2}$ part of a portion of the garden called Thalghawatta, with the buildings and trees standing thereon, situated at Ratmalana aforesaid; which said defined $\frac{1}{2}$ is bounded on the north by a portion of this garden of Pauloe Silva, on the east by Datchawatta of Polwattage Abraham Mendis, on the south by the portion

of this same land belonging to Vidanelage Nonahamy, and on the west by another portion of this same land belonging to Kottage Punchi Appu; containing in extent 29 86/100 square perches, which said premises are held by the said Alankarage Pauloe Silva, under deed No. 3,703, dated June 30, 1877, and attested by the said D. P. de Alwis, Notary.

At 4 P.M.

(4) All that allotment of the garden called Thalghawatta, with the trees and buildings standing thereon, situated at Ratmalana aforesaid; bounded on the north by the property of the late Lewis Pinto, Police Vidane, on the east by the other part of this garden of Selestinu Baas, now of P. William Boteju and Mina Boteju, on the south by the property of the late B. Daniel Fernando, and on the west by the property of the late Bastian Pinto; containing in extent 2 roods and 78/100 square perches, which said premises are held by the said Alankarage Pauloe Silva, under deed No. 541, dated November 11, 1855, attested by J. G. L. Ohlums of Colombo, Notary.

At 4.30 P.M.

(5) All that allotment of the garden called Thalghawatta, with the trees and buildings thereon, situated at Ratmalana aforesaid; bounded on the north by the property of the late Lewis Pinto, Police Vidane, on the east by the property of the late Beruwalage Daniel Fernando, on the south by the portion of Thalghawatta of Beruwalage Daniel Fernando, and on the west by the part of Thalghawatta of L. Carolis Mendis and Juan Mendis, now of William Boteju, Mina Boteju, and others; containing in extent 1 rood and 3 36/100 square perches, which said premises are held by the said Alankarage Pauloe Silva, under deed No. 540, dated November 11, 1885, and attested by the said J. G. L. Ohlums of Colombo, Notary.

At 5 P.M.

(6) All that garden called Gorakagahadeniyawatta alias Penipattakahatagahawatta, with the buildings and plantations standing thereon, situated at Ratmalana aforesaid; bounded on the north by the garden called Penipattagorakagahawatta of Kaluhath Maria Silva, on the east by the garden of Polwattege Salman Anthony, on the south by owita land of Joranis Pinto, Police Vidane, and on the west by the garden of Nicholas Pinto; containing in extent 1 rood and 5 47/100 square perches, which said premises are held by the said Alankarage Carolis Silva, under deed No. 974, dated February 21, 1900, and attested by S. W. Perera of Dehiwala, Notary.

Fiscal's Office,
Colombo, May 12, 1914.

N. WICKRAMASINGHE,
Deputy Fiscal.

In the District Court of Colombo.

Vellap Franciscoge Alensu Sois of Uplands in
Mutwal, Colombo Plaintiff.

No. C 36,760. Vs.

Paiyagalaliyana Arachchige Michela Silva of Green
House, Kotahena, in Colombo (widow of W.
John Mendis, deceased) Defendant.

NOTICE is hereby given that on Friday, June 12, 1914, at 3.30 o'clock in the afternoon, will be sold by public auction at the premises the following property, mortgaged with the plaintiff and ordered to be sold by the order of court dated April 2, 1914, for the recovery of the sum of Rs. 3,346.66, with interest on Rs. 3,100 at 10 per cent. per annum from July 11, 1913, to September 12, 1913, and thereafter on the aggregate amount at 9 per cent. per annum till payment in full, together with the costs of this action as taxed, viz. :—

All that allotment of land called the Uplands together with the buildings thereon and bearing assessment No. 7, situate at Tanque Salgado (formerly bearing assessment No. 2, New Fishers' Quarters); in ward No. 5, within the Municipality of Colombo, Western Province; bounded on the north by Crown land called Uplands, on the east by a road, on the south by land described in plan No. 170,281, and on the west by lands described in plans Nos. 170,295 and 170,294; containing in extent 7 92/100 square perches, according to the figure of survey thereof bearing No. 170,280 dated March 24, 1896, authenticated by the Surveyor-General.

Fiscal's Office,
Colombo, May, 12, 1914.

N. WICKRAMASINGHE,
Deputy Fiscal.

In the District Court of Negombo.

Haputantrige Juse Fernando of Dandugama Plaintiff.

No. 9,537. Vs.

George Perera Warnakulasuriya Seneviratne of
Dandugama Defendant

NOTICE is hereby given that on June 6, 1914, commencing at 10 o'clock in the forenoon, will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property, viz. :—

(1) The land called Makullagahawatta, situate at Dandugama, in Ragam pattu of Alutkuru korale; and bounded on the north by the land belonging to Haputantrige Juse Fernando, east by the land belonging to Liyanage Martino Perera and others, south by the boundary limit of the portion of land belonging to Maharage Theris Fernando, and west by high road from Colombo to Negombo; containing in extent about 1 acre.

(2) The land called Dawatagaha *alias* Birikithagewatta, situate at ditto; and bounded on the north by the land belonging to George Perera Warnakulasuriya Seneviratne, Notary, and others, east by lands in the name of Migel Perera, south by the land belonging to Haputantrige Juse

Fernando, and west by the lands belonging to Liyanage Santiago Perera and others; containing in extent about 3 rods.

Amount to be levied, Rs. 2,160.37, with interest on Rs. 2,017.50 at 9 per cent. per annum from September 17, 1913, till payment.

Deputy Fiscal's Office,
Negombo, May 12, 1914.

FRED. G. HEPPONSTALL,
Deputy Fiscal.

Southern Province.

In the District Court of Matara.

Thomas de Silva Jayasinha Gunasekera and
others Plaintiffs,

No. 4,971. Vs.

Lahandapurage Senis and another Defendants.

NOTICE is hereby given that on Saturday, July 4, 1914, commencing at 1 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said plaintiffs in the following property for the recovery of Rs. 316.31, and also Fiscal's charges :—

(This land, No. 1, is to be sold at the risk of the original purchaser.)

(1) Three-fourths part of Liyanamuhandiranmahatmayaikoratuwa, situate at Talalla, in the Wellaboda pattu of the Matara District, Southern Province; and bounded on the north by Ustruppa and Ritigahawatta, east by Dagarewatta and Mililehena, south by Ahangamagewatta *alias* Agampodigewatta, west by Adiriammagewatta and Gurunnansegekoratuwa, Rs. 200.

(2) Divided eastern half portion of Joolgahahenewatta, belonging to the 5th plaintiff, situate at Talalla, in the Wellaboda pattu of the Matara District, Southern Province; and bounded on the north by Kalapuwa, east by Bogahahena, south by Maragahahena and Isolaiwatta, west by portion of the same land, Rs. 400.

(3) An undivided half of Simannedonseralahaminnewatta belonging to the 4th plaintiff, situate at Talalla, in the Wellaboda pattu of the Matara District, Southern Province; and bounded on the north by wela, east by Liyanamuhandiranmahatmayaikoratuwa, south by Simanduragewatta, west by Lunukoratuwa, Rs. 300.

(4) The field called Walakumbura, in extent 1 amunam of paddy sowing, situate at Talalla Mahawelyaya, in the Wellaboda pattu of the Matara District, Southern Province; and bounded on the north by Mudun-ela, east by Wetiwalekumbura and Godamurekumbura, south by Panaremullewatta and Godamurewatta, west by Puwakpolttekumbura and Balapuwa, Rs. 480.

(5) Five-sixth share of the planter's share of Ganemaduwawedeniyahena, situate at Talalla, in the Wellaboda pattu of the Matara District, Southern Province; and bounded on the north by Kahatagahahena, east by Tunkuttuhena and Koradamaniyahena, south by Attikkagahadeniya *alias* Pansaledeniya, west by Malapaladeniya, Rs. 500.

Deputy Fiscal's Office,
Matara, May 12, 1914.

J. S. DE SARAM,
Deputy Fiscal.

DISTRICT AND MINOR COURTS NOTICES.

IN terms of section 6 of the Ordinance No. 12 of 1894, notice is hereby given that all Justice of the Peace proceedings and all inquest proceedings prior to 1884 will, three months from this date, be destroyed, unless any person interested in any record, personally, or by proctor, or by duly authenticated petition, claim, upon good cause shown, that such records may not be destroyed.

T. B. RUSSELL,
District Judge.

District Court,
Kalutara, May 8, 1914.

NOTICE is hereby given that the Badulla-Haldummulla Circuit Court Sessions for the second half-year 1914 will be held at Bandarawela as follows :—

July 13 to 18.
August 10 to 15.
September 14 to 19.

October 12 to 17.
November 16 to 21.
December 14 to 19.

T. REID,
Police Magistrate and
Commissioner of Requests.

Badulla-Haldummulla Circuit Court,
Badulla, May 7, 1914.