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PART II.—LEGAL.

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DRAFT ORDINANCES.

MINUTE.

Z 184/1926

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

An Ordinance to amend and consolidate certain Law relating to Mortgages.

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**An Ordinance to amend and consolidate certain Laws
relating to Mortgages.**

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

CHAPTER I.

Preliminary.

1 This Ordinance may be cited as the Mortgage Ordinance, No. of 1927, and shall come into operation on a day to be appointed by the Governor by Proclamation published in the Gazette.

Short title and commencement.

2 In this Ordinance, unless the context otherwise requires—

Interpretation.

“Land” includes things attached to the earth or permanently fastened to anything attached to the earth, and any estate, right, or interest in or over land ;

“Mortgage” includes any charge on property for securing money or money’s worth, and includes a mortgage arising by operation of law ;

“Mortgagee” includes any person from time to time deriving title under the original mortgagee ;

“Mortgage money” means money or money’s worth secured by a mortgage, and includes the mortgagee’s costs, charges, and expenses ;

“Hypothecary action” means an action to enforce payment of a mortgage by a judicial sale of the mortgaged property.

3 No conventional general mortgage, executed after January 14, 1871, shall be valid and effectual, so as thereby to give the mortgagee any lien, charge, claim, or priority over or in respect of any property movable or immovable.

General mortgages abolished.

CHAPTER II.

Hypothecary Actions.

4 Unless otherwise provided, this chapter applies to mortgages created or arising, and to hypothecary actions instituted, before or after the commencement of this Ordinance.

Application of chapter.

5 In this chapter, “register” and its derivatives refer to the law for the time being in force as to the registration of instruments affecting land.

Meaning of “registered.”

6 (1) Every person is a necessary party to an hypothecary action who has any mortgage on, or interest in, the mortgaged property to which the mortgage in suit has priority. But nothing in this sub-section shall affect section 472 or any other provision as to parties contained in the Civil Procedure Code, 1889.

Parties to hypothecary actions.

(2) Provided that a person (other than the mortgagor or the executor or administrator of a deceased mortgagor or the assignee in the insolvency of the mortgagor) shall not be a necessary party to a hypothecary action to enforce a mortgage of land—

(a) Unless at the time when the plaint is filed, the instrument, if any, under which he derives title is duly registered ; and

(b) Where the mortgage in suit was duly registered before his title accrued, unless, at the time when the plaint is filed, an address for the service on him of legal documents is duly registered in accordance with the provisions of this Ordinance.

(3) Every person who by this section is declared not to be a necessary party to a hypothecary action shall be bound by every order, decree, and sale, or thing done in the hypothecary action in like manner and to the same extent as if he had been a party to the action, but may be permitted by the court to intervene at any stage of the proceedings before distribution of the proceeds of sale on such terms as to the court may seem just.

Provided that a person so permitted to intervene shall, unless and so far as the court otherwise orders, be bound by every order, decree, and sale, or thing done in the hypothecary action before his intervention.

(4) Nothing in this section shall affect any right to participate in the surplus proceeds of sale of property sold in a hypothecary action remaining after satisfaction of the mortgage in suit or to follow such proceeds.

(5) This section applies only where the mortgage in suit was created or arose after the commencement of this Ordinance.

Representation of estate of deceased mortgagor or person interested in the mortgaged property.

7 (1) Where the executor or administrator of a deceased mortgagor is a necessary party to a hypothecary action, or a mortgage on, or interest in, the mortgaged property forms part of the estate of a deceased person, and representation to the deceased mortgagor or person has not been granted, the court may, if it thinks fit and after service of notice of the application on such persons, if any, as the court may order, appoint a person to represent the estate of the deceased for the purposes of the hypothecary action, and every order, decree, and sale, or thing done in the hypothecary action shall, if such person is a party to the action, be as effective as if the executor or administrator of the deceased were a party to the action.

(2) This section applies only—

- (a) Where the value of the mortgaged property does not exceed one thousand rupees ; or
- (b) Where the grant of representation to the deceased is, in the opinion of the court, likely to be unduly delayed.

Registration of address for service.

8 (1) Application for registration of an address for service of legal documents shall be made substantially in the form in the schedule to this chapter.

(2) Where such an application declares that a previously registered address for service of legal documents on the applicant is cancelled, the registrar shall cancel the entry in the register of such previously registered address.

(3) The address for service shall be registered in or in continuation of the same folio as is the mortgage of the land in or on which the applicant has an interest or mortgage.

(4) But where the mortgage of the land in or on which the applicant has an interest or mortgage includes other land, it shall be sufficient if the address for service on the applicant is registered in the folio relating to that land in or on which the applicant has an interest or mortgage.

(5) The fee for registration of an address for service shall be one rupee for each address, with an addition of twenty-five cents for each folio after the first in which the address is to be registered.

Service on defendants to hypothecary actions.

9 (1) Service on a defendant to a hypothecary action (other than the mortgagor or the executor or administrator of a deceased mortgagor or a person appointed under section 7 or the assignee in the insolvency of the mortgagor) of any of the following documents, viz., any summons, notice, process, order, decree, document, or written communication required to be served on him personally for any purpose in connection with the action shall be deemed to be duly served on the defendant—

- (a) If it is served on him personally ; or
- (b) If a copy of the document is posted in a conspicuous position on the mortgaged property and published in a newspaper circulating in Ceylon ; and
- (c) Where an address for service of legal documents on the defendant is duly registered, if, in addition, a copy of the document is sent by registered post to the defendant at such address.

(2) This section applies only where the mortgage in suit was created or arose after the commencement of this Ordinance.

(3) Nothing in this section shall affect any power of ordering substituted or other service contained in the Civil Procedure Code, or the provisions of sections 26, 64, and 66 of that Code (which relate to service on an agent of the defendant).

10 (1) A conveyance completing a sale in a hypothecary action shall not affect the interest or mortgage of a necessary party who is not a party to the action, or any interest or mortgage which has priority to the mortgage in suit.

Effect of conveyance under mortgage decree.

(2) Subject as aforesaid, the conveyance shall, unless otherwise expressed therein, operate to convey the property sold for such estate and interest therein as is the subject of the mortgage, freed from the interests, mortgages, and rights of—

- (a) Every party to the action; and
- (b) Every person who by this Ordinance is declared not to be a necessary party to the action.

(3) This section applies only where the mortgage in suit was created or arose after the commencement of this Ordinance.

11 (1) On a sale of mortgaged land in a hypothecary action, every mortgage wholly or in part paid off out of the purchase money shall, unless a contrary intention is expressed in the conveyance to the purchaser, be deemed to be kept on foot for the protection of the purchaser and his successors in title against incumbrances, estates, and interests to which the mortgage in suit in the hypothecary action had priority, and the purchaser and his successors in title shall, accordingly, be entitled to a hypothecary charge on the purchased land for a sum (which shall not bear interest) equal to the amount of the purchase money or the amount of the mortgage money due under the mortgage so paid off at the date of the sale, whichever amount shall be the less, and having the same priority as had the mortgage so paid off at the date of the payment of the purchase money.

Mortgage in suit to be kept on foot.

(2) This section applies to sales effected before or after the commencement of this Ordinance, but shall not affect any title acquired for valuable consideration before the commencement of this Ordinance.

12 (1) Where in a hypothecary action the court finds that the mortgage ought to be enforced, the decree shall order that, in default of payment of the mortgage money within the period mentioned in the decree, the mortgaged property shall be sold, and the court may, if it thinks fit, in the decree or subsequently give such directions as to the conduct and conditions of the sale (including the terms on which the mortgagee shall be allowed to purchase), and the person to conduct the sale and the confirmation of the sale, and the form of conveyance and the person by whom it is to be executed, and as to the delivery of possession to the purchaser and as to the removal of any person bound by the decree from the property, as the court may think fit.

Directions in mortgage decree.

(2) Subject to or in default of any such directions, the mortgaged property shall, on an order for sale being given by the court to the Fiscal, be sold in like manner as if it had been seized by the Fiscal under a writ of execution for the amount of the mortgage money, and sections 255 to 288 (inclusive) and 290 to 297 (inclusive) of the Civil Procedure Code, 1889, shall apply accordingly.

Provided that, unless otherwise directed by the court, the form of conveyance contained in the schedule to this chapter shall be used.

13 (1) A conveyance, whether executed before or after the commencement of this Ordinance, completing a sale of mortgaged property in a hypothecary action shall not be invalid by reason only that the directions for the sale or any directions as to the conduct and conditions of the sale (including the terms on which the plaintiff shall be allowed to purchase) were not embodied in the decree for sale or were given after such decree.

Validation of certain conveyances in hypothecary actions.

(2) This section shall not affect any title acquired for valuable consideration before the commencement of this Ordinance.

14 Where an hypothecary action instituted after the commencement of this Ordinance is heard *ex parte* under section 85 of the Civil Procedure Code, 1889, the decree shall be a decree

Decree absolute in default of appearance.

absolute and not a decree *nisi*, and, accordingly, the following amendments shall be made to the Civil Procedure Code, 1889, viz. :

- (a) The words " or, in the case of a hypothecary action, a decree absolute in the form No. 22A in the Second Schedule or to the like effect," shall be inserted in section 85 immediately after the words " to the like effect " and the words " and shall issue to the defendant a notice of every such decree *nisi* " shall be substituted for the words " and shall thereupon issue to the defendant a notice of such decree " in the same section ;
- (b) The words " or, in the case of a hypothecary action, that there were reasonable grounds for the default upon which the decree absolute was passed," shall be inserted in section 87 immediately after the words " information of the proceedings " ; and
- (c) The following form shall be inserted in the Second Schedule, viz. :

No. 22A.—Form of Decree Absolute in Hypothecary Action in Default of Appearance of Defendant.

(See Section 85.)

(Title.)

This action coming on for disposal before (*name and office of Judge*) on the _____ day of _____, 19____, being the day appointed in the summons for the defendant to appear and answer (*or* being the day appointed for the defendant to file answer, *or* for the filing of the replication, *or* being the day fixed for the hearing of the action, *as the case may be*), and the plaintiff appearing (*in person, &c., as above*) and the defendant not appearing either in person or by proctor or counsel, although he was duly served with the summons, together with a copy of the plaint (*or, if the case is so, a concise statement of the nature of the claim as provided by section 49 of the Civil Procedure Code*), as by the affidavit of _____, filed the _____ day of _____ appears: It is ordered and decreed _____ that the defendant _____ do pay to the plaintiff the sum of rupees _____ and cents _____ (Rs. _____), being the aggregate amount of the principal, interest, and costs due in respect of Mortgage Bond No. _____, dated the _____ day of _____, 19____, and attested by _____, Notary Public, with interest thereon at the rate of nine per cent. per annum from this date till payment in full, and the costs of this action (Rs. _____), as taxed by the officer of the court, within (*state period*) from the date of this decree.

And it is further ordered that in default of payment of the said amount, interest, and costs within such time, the premises mortgaged by the said bond, to wit: _____, and all the right, title, interest, and claim whatsoever of the _____ defendant in, to, upon, or out of the said several premises mortgaged by the defendant, be sold and the proceeds applied in and towards the payment of the said amount, interest, and costs, and if such proceeds shall not be sufficient for the payment in full of such amount, that the _____ defendant do pay to the plaintiff the amount of the deficiency, with interest thereon at the afore-mentioned rate until realization.

The _____ day of _____, 19____.

District Judge.

Expenses
after decree.

15 A mortgagee's costs in a hypothecary action include all costs, charges, and expenses properly incurred by him as mortgagee whether before or after institution of the hypothecary action or the decree in the action.

Enforcement of
other remedies
in hypothecary
action.

16 (1) Notwithstanding section 34 of the Civil Procedure Code, 1889, a claim to all or any of the remedies of a mortgagee to enforce payment of the mortgage money may be joined to a claim in a hypothecary action, or a separate action may be brought in respect of each remedy.

(2) But if more actions than one are brought to enforce payment of any mortgage money, the mortgagee shall not, unless and so far as the court for good reason otherwise orders, be entitled to costs in any action except the first action, and in any such action after the first the court may, if it thinks fit, award costs to the defendant.

*Schedule to Chapter II.*Application for Registration of Address for Service of
Legal Documents.

To the Registrar of Lands of _____.

I (*name in full and address*) apply under section 8 of the Mortgage Ordinance, No. _____ of 1927, for registration in the folio or folios specified in B. below of the address specified in A. below as the address for service on me of legal documents in any hypothecary action to enforce any mortgage registered in the folio or folios specified in B. below. Particulars of the instrument under which I derive title are given in C. below.

A.—Address for Service.

(*Name of person to whom legal documents are to be sent. This person may be applicant or another person.*)

(*Full postal address in the Island.*)

e.g. :—H. John Perera,
No. 18, Maliban street,
Pettah, Colombo.

B.—Folio or Folios in which the Address is to be registered.

Volume : _____.

Folio : _____.

Volume : _____.

Folio : _____.

C.—Particulars of Instrument under which Applicant
derives Title.

- (1) Number and date of deed : _____.
- (2) Name of attesting notary : _____.
- (3) Volume and folio where the deed is registered : _____.

2. I further declare that my address for service previously registered with you on _____ in volume _____, folio _____, is hereby cancelled.

3. The registration fee of Rs. _____ is enclosed in stamps.

Dated : _____, (*Signature of Applicant or Agent.*)*

Form of Conveyance by Fiscal.

(Title.)

To all to whom these presents shall come, greeting.

Whereas by a mortgage bond dated _____, and bearing number _____ and attested by _____, notary public, and registered in the _____ District Land Registry at folio _____, the payment to _____ of the sum of _____ rupees was secured with interest by mortgage of the property hereinafter described and hereby conveyed.

And whereas by a decree entered in action No. _____ of the District Court of _____ on the _____ day of _____ it was ordered and decreed that _____ the defendant in the said action do pay to _____ the plaintiff in the said action forthwith the sum of _____ rupees (Rs. _____), being the aggregate amount of the principal, interest, and costs due in respect of the said mortgage bond together with interest thereon at the rate of nine per centum per annum from the date of the said decree until payment. And that in default of payment of the said sum, interest, and costs within (*state period*) from the date of the said decree the said property be sold :

And whereas an order for the sale of the said premises was subsequently given by the court to the Fiscal under section 12 (2) of the Mortgage Ordinance, No. _____ of 1927.

And whereas after due notice and publication in manner by law prescribed the said property was exposed to public sale on the _____ day of _____, 19____, by _____ acting under the authority of the said Fiscal, and was sold to _____ as the highest bidder at the said sale for the sum of _____ rupees :

* Agent means an agent authorized in writing by the applicant or proctor or notary public.

And whereas the said (*purchaser*) has duly paid to the said Fiscal the whole of the said purchase money and thus became entitled to a conveyance of the said property (*or, where the plaintiff is purchaser, and whereas the said (purchaser) has been allowed the amount of the purchase money (or as the case may be) in reduction of his claim, and has produced the order of court, copy whereof is hereunto annexed, and has thus become entitled, &c.*):

And whereas the said court by an order dated the _____ day of _____, 19____, copy of which is hereunto annexed, has duly confirmed the said sale.

Now these presents witness that the said Fiscal in consideration of the said sum of _____ rupees so paid by (*or credited to*) the said (*purchaser*) as aforesaid, the receipt whereof the said Fiscal doth hereby acknowledge, hath sold and assigned, and by these presents doth sell and assign, unto the said (*purchaser*), his heirs, executors, administrators, and assigns, the property described in the schedule hereto. To have and to hold the same with their and every of their appurtenances to him, the said (*purchaser*), his heirs, executors, administrators, and assigns for ever:

In witness whereof the said Fiscal hath hereunto subscribed his name at _____ this _____ day of _____, 19____.

_____, Fiscal.

Witnesses:

Schedule.

(*To contain a description of the property conveyed.*)

Annexures.

N.B.—This form may be varied as circumstances may require.

CHAPTER III.

Mortgages to secure Future Advances.

17 (1) In the following cases, that is to say:

- (a) Where a mortgage is given to secure future advances (whether with or without any previous advances or other liability);
- (b) Where a mortgage is given to secure the floating balance from time to time due upon any account;
- (c) Where a mortgage is given to secure a contingent liability arising out of a particular relationship (not being a liability of the nature of those referred to in either of the last two preceding paragraphs);

such mortgage shall be effective to the full extent of the charge intended to be created thereby as against any person claiming under any subsequent mortgage or transfer, notwithstanding that no money may have been actually due at the date of such subsequent mortgage or transfer in respect of the liability intended to be secured, and irrespective of the actual amount so due on such date.

(2) For the purposes of this section, the expression "transfer" includes any instrument creating any interest in the mortgaged property.

(3) This chapter applies to mortgages and transfers of land whether created, executed, or arising before or after the commencement of this Ordinance, but shall not affect the mutual rights of the parties in the case of *K. P. S. T. Sithambaram Chetty of Sea Street, Colombo, v. Bentotage David Fernando and Bentotage Bastian Fernando, both of Wellawatta, D. C., Colombo, Case No. 46,630*, or in any other case in which the decision of the Supreme Court in the said case shall have been followed prior to April 24, 1918.

(4) This chapter does not apply to mortgages of property other than land.

18 Nothing contained in this chapter shall affect the priorities attaching to instruments as the result of registration under the law for the time being regulating the registration of instruments affecting land.

Effect of mortgages to secure future, &c., liability.

Priorities of law of registration unaffected.

CHAPTER IV.

Supplementary.

19 (1) Sections 201, 640, 641, 642, 646, 647, 648, and 649 of the Civil Procedure Code, 1889, and forms Nos. 98 and 99 in Schedule II. to that Code and section 1 of Ordinance No. 8 of 1871, and the whole of Ordinance No. 8 of 1918 are hereby repealed.

Repeal and
amendment.

(2) The following shall be substituted for section 645 of the Civil Procedure Code, 1889, viz. :

645. Sections 643 and 644 shall not apply where the mortgage in suit was created or arose after the commencement of the Mortgage Ordinance, No. of 1927.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, March 1, 1927.

A. G. M. FLETCHER,
Colonial Secretary.

Statement of Objects and Reasons.

THE primary object of this Ordinance is to remedy certain difficulties which have arisen under Chapter XLVI. of the Civil Procedure Code. That chapter provides, in effect, that, where a primary mortgagee has registered his mortgage and furnished an address to the Registrar of Lands, only those puisne incumbrancers need be served with notice of an hypothecary action who have furnished the primary mortgagee with an address for service. These provisions have not worked well in practice. Mortgagees constantly omit to register their addresses, and very great difficulty has been experienced in working out the rights of the parties in such cases.

2. There seems to be no real reason either for requiring a primary mortgagee to register his address or for requiring a puisne incumbrancer to give his address to the primary mortgagee. It is thought that all parties will be amply protected by providing that only those puisne incumbrancers need be joined in a hypothecary action who have registered their deeds and addresses in the deeds registry. This principle is, accordingly, adopted in the new Ordinance (section 6), but the new provision will apply only to mortgages created after the commencement of the new Ordinance. The address of a puisne incumbrancer will be registered in the same folio as the primary mortgage (section 8) instead of, as at present, in a separate register of addresses. The fee for registration will be one rupee, with an addition of twenty-five cents for each folio after the first in which the address is to be registered.

3. Cases will, no doubt, continue to occur where a puisne incumbrancer who is a necessary party is, by inadvertence, not joined as a party. In such an event the title of the purchaser under the mortgage decree will be subject to that of the puisne incumbrancer. On the other hand, the purchaser will under section 11 be entitled to the protection of a hypothecary charge on the purchased property equal to the amount of the primary mortgage discharged out of his purchase money. This gives legislative sanction to the decisions in *Kristnappa Chetty v. Horatala*, (1923) 25, New Law Reports, page 39, and *Anohamy v. Haniffa*, (1923) 25, New Law Reports, page 289, and is analogous to the English doctrine under which a mortgage paid off out of purchase money may be kept on foot for the protection of the purchaser against undisclosed incumbrances. This provision (section 11) will apply to sales effected before or after the new Ordinance, but will not affect a title acquired for valuable consideration before the new Ordinance.

4. Section 9 contains special provisions for service on puisne incumbrancers in a hypothecary action. Ceylon law by requiring puisne incumbrancers to be joined as defendants imposes a heavy burden on the primary mortgagee. The present law (sections 643 and 644 of the Civil Procedure Code) permitting service to be effected by registered letter cannot be regarded as a satisfactory remedy. It is well known that in many cases the registered letter is returned by the post office as undeliverable. Accordingly, section 9 of the new Ordinance requires that the document to be served, if not

served personally, shall, not only be sent to the defendant by registered post, but also be conspicuously posted on the mortgaged property and published in a Ceylon newspaper.

5. Section 7 reproduces the substance of the proviso to section 642 of the Civil Procedure Code relating to the appointment of persons to represent the estate of a deceased mortgagor. It has, however, been extended to the executors and administrators of deceased puisne incumbancers, and to cases where the value of the mortgaged property exceeds one thousand rupees where the grant of representation to the deceased is, in the opinion of the court, likely to be unduly delayed.

6. Sections 645 to 648 providing for the sequestration of the estate of a defendant to a hypothecary action who cannot be found are repealed, it being considered that the ordinary law as to substituted service is sufficient.

7. Section 12 (1) replaces section 201 of the Civil Procedure Code and obviates the difficulty raised by the decision in *Walker v. Mohideen*, (1924) 6, Ceylon Law Recorder, that directions as to the conduct of a mortgage sale cannot be given after decree. Section 12 (2) provides that, in default of directions, a sale under a mortgage decree shall be conducted by the Fiscal in the same manner as sales in execution of money decrees.

8. Section 14 permits a decree absolute, instead of a decree *nisi*, to be made in a hypothecary action heard *ex parte* under section 85 of the Civil Procedure Code. The present procedure requiring a decree *nisi* to be made in the first instance leads to unnecessary expense, and serves no useful purpose. It will not be necessary to serve notice of the decree on the defendant in default. But the decree can be set aside where there are reasonable grounds for the default.

9. Section 15 declares that a mortgagee's costs include costs, charges, and expenses properly incurred by the mortgagee after decree. This will enable such costs to be taxed in the usual way.

10. Section 16 permits a mortgagee to pursue his remedies in more than one action, at his risk as to costs.

11. Chapter III. reproduces Ordinance No. 8 of 1918 as to mortgages of land for future advances.

12. Section 3 avoiding conventional general mortgages reproduces section 1 of Ordinance No. 8 of 1871. The remainder of that Ordinance (requiring the registration of bills of sale) will be incorporated in another Ordinance which will deal comprehensively with the registration of documents affecting land and movable property.

Attorney-General's Chambers, L. H. ELPHENSTONE,
Colombo, December 14, 1926. Attorney-General.

MINUTE.

Z 127/1926

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

An Ordinance to amend and consolidate the Law relating to the Registration of Documents.

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An Ordinance to amend and consolidate the Law relating to the Registration of Documents.

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

CHAPTER I.

Preliminary.

Short title and commencement.

1 This Ordinance may be cited as the Registration of Documents Ordinance, No. of 1927, and shall come into operation on a day to be appointed by the Governor by Proclamation published in the Gazette.

Land registries.

2 (1) There shall continue to be in Colombo a land register office for the purposes of this Ordinance and the Land Registration Ordinances, No. 5 of 1877 and No. 4 of 1889, with branch offices at such places as the Governor may from time to time direct, and the land register office and branch offices established under the Land Registration Ordinance, 1891, or any Ordinance repealed by that Ordinance shall be deemed to be duly established under this Ordinance.

(2) The business of the land register office and branch offices shall be conducted by a Registrar-General of Lands (in this Ordinance called the "Registrar-General"), and such number of Assistant Registrars-General (in this Ordinance called "Assistant Registrars-General") and Registrars of Lands (in this Ordinance called "registrars") as the Governor may from time to time consider necessary. Acting appointments may be made as may be necessary in the event of the Registrar-General or any Assistant Registrar-General or registrar being ill or incapable of acting or temporarily absent from duty.

(3) All appointments under this section shall be made, and may at any time be revoked, by the Governor.

Provided that in the case of the death, illness, incapacity, absence from duty, or other emergency, the Registrar-General may appoint any person to act as a registrar for not more than thirty days at any one time and may at any time revoke such appointment.

(4) All appointments under this section shall be notified in the Gazette.

(5) All appointments made under the Land Registration Ordinance, 1891, shall be deemed to have been made under this Ordinance.

(6) The Registrar-General may, if he thinks fit, exercise all or any of the powers possessed by a registrar.

(7) Subject to the directions of the Registrar-General, any matter or thing which by this Ordinance or any regulation may or is to be done by the Registrar-General may also be done by any Assistant Registrar-General.

Definition of land.

3 In this Ordinance, unless the context otherwise requires, "land" includes things attached to the earth or permanently fastened to anything attached to the earth and any estate or interest in land, and a mortgage of or charge on land.

CHAPTER II.

Registration of Duplicates of Deeds, &c.

Duplicates to be transmitted to registrar.

4 (1) Every District Judge, Commissioner, or Justice of the Peace shall, on or before the fifteenth day of each month, deliver or transmit to the registrar of the district wherein he resides the duplicates of all deeds or other instruments executed before him under the provisions of Ordinance No. 17 of 1852, together with two copies of a list of such duplicates, and, if the land affected by any such deed or instrument is situated in a district other than that in which he resides, he shall also on or before the day aforesaid transmit or deliver an attested copy of the deed or instrument to the registrar of the last-mentioned district.

(2) Every public officer by or before whom any document affecting land is executed shall, if sub-section (1) of this section does not apply thereto, on or before the fifteenth day of the following month deliver or transmit a duplicate or an attested or certified copy thereof to the registrar of each district in which the land affected thereby is situated together with two copies of a list of all duplicates or copies so delivered by him.

5 (1) Every registrar shall from time to time cause all duplicates and copies transmitted or delivered to him under the preceding section or any other written law, or by any notary under the provisions of the Notaries Ordinance, 1907, to be bound in convenient volumes distinguished by the name of the court to which the Judge or Commissioner is attached, or by the name of the Justice or notary who attested the deed or instrument, or, in the case of duplicates or copies transmitted or delivered under sub-section (2) by the official designation of the public officer by or before whom the deed or instrument was executed, and shall keep and preserve the same in his office.

Registrar to bind all duplicates.

(2) All duplicates and copies transmitted or delivered to a registrar or bound in volumes under the corresponding provision in the Land Registration Ordinance, 1891, or any Ordinance repealed by that Ordinance shall be deemed to have been so transmitted, delivered, or bound under this chapter.

CHAPTER III.

Registration of Instruments affecting Land.

6 In this chapter, unless the context otherwise requires, "instrument" means an instrument affecting land.

Meaning of "instrument."

7 (1) An instrument executed or made on or after January 1, 1864, whether before or after the commencement of this Ordinance shall, unless it is duly registered under this chapter, or, if the land has come within the operation of the Land Registration Ordinance, 1877, in the books mentioned in section 26 of that Ordinance, be void as against all parties claiming an adverse interest thereto on valuable consideration by virtue of any subsequent instrument which is duly registered under this chapter, or, if the land has come within the operation of the Land Registration Ordinance, 1877, in the books mentioned in section 26 of that Ordinance.

Unregistered instruments void against subsequent registered instruments.

(2) But fraud or collusion in obtaining such subsequent instrument or in securing the prior registration thereof shall defeat the priority of the person claiming thereunder.

(3) An instrument duly registered before the commencement of this Ordinance, under the Land Registration Ordinance, 1891, or any Ordinance repealed by that Ordinance, shall be deemed to have been duly registered under this chapter.

(4) Registration of an instrument under this chapter shall not cure any defect in the instrument or confer upon it any effect or validity which it would not otherwise have except the priority conferred on it by this section.

8 For the purpose of this Ordinance, the following instruments shall be deemed to affect land, viz.:

Meaning of "affecting land."

(a) If executed or made before the commencement of this Ordinance, every deed or other instrument of sale, purchase, transfer, assignment, or mortgage of any land, or of promise, bargain, contract, or agreement for effecting any such object, or for establishing or transferring any security, interest, or incumbrance affecting any land (other than a lease at will; or for any period not exceeding one month); or of contract or agreement for the future sale or purchase or transfer of any land; and every deed or act of release, surrender, or annulment of or affecting any such deed or other instrument, and every will disposing of any land, and every grant of administration affecting any land; and every judgment or order of court affecting land;

(b) If executed or made after the commencement of this Ordinance, all instruments, including wills, decrees and orders of any court or authority, and awards, which purport or operate to create, confer, declare, limit, assign, transfer, charge, incumber, release, or extinguish any right, title, or interest, whether vested or contingent, past, present, or future, to, in, or over land, or which create or record or are evidence of any contract for effecting any such object.

Provided that paragraph (b) of this section shall not apply to—

- (i.) Any decree or order of court where the action in which the decree or order is made has been duly registered as a *lis pendens* ;
- (ii.) A writ of execution issued under section 225 and a notice of seizure issued under section 237 of the Civil Procedure Code, 1889 ;
- (iii.) Any letters of administration to the estate of an intestate ;
- (iv.) A decree or order adjudging a person to be insolvent or bankrupt ;
- (v.) A decree, order, or other instrument appointing or recording, certifying, or confirming the appointment or election of an assignee or trustee in insolvency or bankruptcy ;
- (vi.) Any document relating to shares in a registered company notwithstanding that the assets of the company consist in whole or in part of land ;
- (vii.) Any debenture issued by any such company and not creating, declaring, assigning, limiting, or extinguishing any right, title, or interest to or in land except in so far as it entitles the holder to the security afforded by a registered document whereby the company has mortgaged, charged, conveyed, or otherwise transferred the whole or part of its land or any interest therein to or in favour of or for the benefit of the holders of such debenture ;
- (viii.) Any endorsement upon or transfer of any debenture issued by such company ;
- (ix.) Any receipt for payment of money due under a mortgage or charge when the mortgage or charge is not thereby extinguished ;
- (x.) Any instrument if the only interest in land created or dealt with thereby is a tenancy at will or for a period not exceeding one month or determinable by the landlord by not more than one month's notice.

Will when defeated by conveyance by heir.

9 (1) A will shall not, as against a disposition by any heir of the testator of land affected by the will, be deemed to be void or lose any priority or effect by reason only that at the date of the disposition by the heir the will was not registered under this chapter.

(2) This section applies whether the testator died before or after the commencement of this Ordinance, but does not apply—

- (a) Where the disposition by the heir was executed before the commencement of this Ordinance ; or
- (b) Where, at the time of the disposition by the heir, being not less than one year after the death of the testator, letters of administration to the estate of the testator have been granted on the footing that he died intestate.

Registration of *lis pendens*.

10 (1) No *lis pendens* affecting or relating to land instituted on or after November 9, 1917, shall bind a purchaser, unless and until the *lis pendens* is duly registered under this chapter.

(2) But a *lis pendens* duly registered before the commencement of this Ordinance under the provisions of Ordinance No. 29 of 1917, shall be deemed to have been duly registered under this chapter.

(3) In this section, "purchaser" means any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in or charge on land.

(4) For the purpose of registering a *lis pendens* a document in the prescribed form shall be presented for registration, and such document shall be registered in the same manner as other instruments affecting land, but shall be retained by the registrar.

(5) Registration of a *lis pendens* shall not be in force beyond a period of five years from the date of registration, whether before or after the commencement of this Ordinance; but a *lis pendens* may be re-registered as often as may be necessary, and every such re-registration shall have the effect of an original registration.

(6) A *lis pendens* may be registered at any time after the plaint has been accepted by the court in accordance with the provisions of the Civil Procedure Code, 1889.

(7) For the purpose of the application of the doctrine of *lis pendens*, an action duly registered as a *lis pendens* shall be deemed to be pending from the time of registration notwithstanding that the summons has not been served on the defendant.

11 (1) A precept or order for the service of a summons in a partition action shall not be issued unless and until the action has been duly registered as a *lis pendens*.

Partition actions.

(2) Where the plaint in a partition action has been duly registered as a *lis pendens*, a decree for sale or partition in the action shall be deemed not to be an instrument affecting land.

(3) This section applies only where the plaint in the partition action is filed after the commencement of this Ordinance.

(4) Nothing in this Ordinance shall affect the provisions of section 17 of Ordinance No. 10 of 1863, intituled "An Ordinance to provide for the Partition or Sale of Lands held in common" (which relate to the alienation or hypothecation of undivided shares or interests).

12 (1) Every registrar shall prepare and keep the prescribed books for the registration of instruments, allotting to each book (which may be in as many volumes as necessary) a defined division of his province or district.

Books for registration of instruments affecting land.

(2) The books for the registration of instruments established under the Land Registration Ordinance, 1891, or any Ordinance repealed by that Ordinance shall continue to be used, and shall be deemed to be kept under this chapter.

13 (1) Every instrument (except a will) presented for registration shall contain embodied therein, or in a schedule annexed thereto, an accurate and clear description of the land affected thereby, its boundaries, extent, and situation specifying the district and the village, pattu, korale, or other division of the district in which the land is situated; and in case the land is situated in any town, the name, if any, of the street in which it is situated and its assessment number and name, if any.

Mode of description of lands in instruments.

(2) If the land consists of a divided portion of a land or allotment, such portion shall be clearly and accurately defined by its particular boundaries and extent.

(3) If the land consists of an undivided share in a land, the proportion which the share bears to the entire land shall be stated, and a description of the entire land shall be given as required by sub-section (1).

(4) A person desiring to register a will shall give to the registrar a written description of the land affected thereby which shall comply with the provisions of sub-sections (1) to (3) of this section.

(5) No instrument, other than a will, which does not state the particulars required by this section shall be registered except with the sanction of the Registrar-General, who shall give his sanction, if it is shown to his satisfaction—

(a) That the description is sufficient to enable the land to be identified with reasonable certainty; or

(b) That it was impracticable to insert the required particulars in the instrument.

Any person aggrieved by a decision of the Registrar-General under this sub-section may, within thirty days from the date of such decision being communicated to him, institute in any District Court having jurisdiction a suit against the Registrar-General praying for the variation or reversal of such decision.

(6) Where the description of the land affected by an instrument executed or made after the commencement of this Ordinance is not contained in a schedule to the instrument, a fee of five rupees shall be payable for the registration in addition to any other fee which may be payable.

Instruments to be registered in proper folio.

14 (1) Every instrument presented for registration shall be registered in the book allotted to the division in which the land affected by the instrument is situated and in, or in continuation of, the folio in which the first registered instrument affecting the same land is registered.

Provided that—

(a) An instrument may, if the registrar thinks fit, be entered in a new folio, cross references being entered in the prescribed manner so as to connect the registration with any previous registration affecting the same land or any part thereof; and

(b) Where no instrument affecting the same land has been previously registered, the instrument shall be registered in a new folio to be allotted by the registrar.

(2) An instrument, whether registered before or after the commencement of this Ordinance, shall not be deemed to be duly registered under this chapter unless it is registered in accordance with the foregoing provisions of this section.

(3) Every order made after the commencement of this Ordinance under section 4 of Ordinance No. 1 of 1897 entitled "An Ordinance relating to claims to Forest, Chena, Waste, and Unoccupied Lands" and embodying therein an agreement between the Government Agent or Assistant Government Agent or the special officer appointed under section 28 of that Ordinance and the claimant shall be registered in a new folio to be allotted by the registrar, and an instrument affecting land dealt with by the agreement and registered after registration of the order shall not be deemed to be duly registered under this chapter unless it is registered in or in continuation of the folio in which the order is registered.

Method of registration.

15 Registration of an instrument shall be effected by entering the prescribed particulars in the proper folio.

CHAPTER IV.

Registration of Bills of Sale.

Meaning of "bill of sale."

16 (1) In this Ordinance, unless the context otherwise requires, "bill of sale" includes a pledge, conventional hypothecation, assignment, transfer, declaration of trust without transfer, and any other assurance of movable property, whether absolute or by way of mortgage or otherwise, and also a power of attorney and authority or licence to take possession of movable property as security for any debt, but does not include a marriage settlement or assignment thereof.

(2) Nothing in this chapter shall apply to contracts of sale of goods within the meaning of the Sale of Goods Ordinance, 1896, and made in the ordinary course of any business, trade, or calling, nor to bills of sale of any ship or vessel registered under the Merchant Shipping Acts, or any share thereof, nor to bills of sale of goods in any foreign parts or at sea; nor to property represented by bills of lading, dock warrants, warehouse-keepers' certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business as proof of the possession or control of goods, and authorizing or purporting to authorize either by endorsement or by delivery the possessor of such document to transfer or receive goods thereby represented; nor to any shares or interests in the stock funds or securities of any Government, or in the capital or property of any incorporated or joint stock company; nor to choses in action; nor to any crops or produce growing or to be grown on any lands or plantations.

17 No bill of sale of movable property, whether executed before or after the commencement of this Ordinance, shall be valid and effectual, so as thereby to give the pledgee, mortgagee, or transferee any lien, charge, claim, right, or priority over, to, or in respect of such property—

Bill of sale of movable property to be effected by actual delivery.

Unless the said property shall have been actually delivered over into the custody and possession of the pledgee, mortgagee, or transferee, or some person on behalf of such pledgee, mortgagee, or transferee, and shall continue and remain ostensibly and *bona fide* in such custody and possession from the date of such bill of sale until the time when the pledgee, mortgagee, or transferee shall make his claim at law to, over, or in respect of such property; or

Unless such bill of sale shall have been created by writing signed by the person effecting the same, or by some person thereto lawfully authorized by him, and unless such writing shall within twenty-one days (exclusive of Sundays and public holidays) from the date thereof have been duly registered in the office of the Registrar of Lands for the district in which such property shall be at the time of such bill of sale, or in the office of the said registrar for each of such districts, when such property is at the time of such bill of sale in more than one district.

18 No transfer or assignment, whether made before or after the commencement of this Ordinance, of any bill of sale of any movable property, shall be valid and effectual, so as thereby to give the transferee or assignee any lien, charge, claim, right, or priority over, to, or in respect of such property, unless such transfer or assignment shall be in writing, signed by the person transferring the same, or by some person thereto lawfully authorized by him, and shall within twenty-one days (exclusive of Sundays and public holidays) from the date thereof have been registered in manner aforesaid.

Transfer or assignment of bills of sale to be also by deed and registered.

19 But a bill of sale or transfer or assignment thereof duly registered under Ordinance No. 8 of 1871, or under the Land Registration Ordinances, No. 8 of 1863 and No. 3 of 1865, shall be deemed to have been duly registered under this Ordinance.

Saving of registrations under earlier Ordinances.

20 (1) A bill of sale of movable property not in existence at, or to be acquired after, the time of such bill of sale, and a transfer or assignment of such a bill of sale, shall, if it is registered under this chapter in any district, be deemed to be duly registered as respects such movable property, but shall not affect such movable property unless and until such movable property is in, or is brought into, the district in which the bill of sale is registered.

Bills of sale of after acquired property.

(2) This section applies to bills of sale and transfers or assignments of bills of sale, whether created or executed before or after the commencement of this Ordinance, but shall not affect any title for value acquired before the commencement of this Ordinance.

21 (1) Every registrar shall prepare and keep the prescribed books for the registration of bills of sale. Each book may be in as many volumes as necessary.

Books for registration of bills of sale.

(2) The books for the registration of bills of sale established for the purposes of Ordinance No. 8 of 1871 shall continue to be used, and shall be deemed to be kept under this chapter.

22 (1) Every bill of sale and transfer or assignment of a bill of sale shall contain embodied therein or in a schedule annexed thereto as clear and accurate description of the movable property affected thereby as circumstances permit.

Method of registration.

(2) Where the description of the movable property affected by a bill of sale executed or made after the commencement of this Ordinance is not contained in a schedule annexed thereto, a fee of five rupees shall be payable for the registration in addition to any other fee which may be payable.

(3) Registration of a bill of sale shall be effected by entering the prescribed particulars in the proper book and in the prescribed form.

Non-application
of chapter to
certain
documents.

23 (1) No bill of sale effected before the commencement of this Ordinance, and no transfer or assignment effected before such commencement of any such bill of sale, shall be deemed to be invalid or in any respect ineffectual for want of registration under the provisions of this chapter, if such bill of sale, transfer, or assignment was effected by any instrument executed before the commencement of this Ordinance which also contains any mortgage or assurance of any land, or any transfer or assignment of such mortgage or assurance, and if such mortgage or assurance of land, or transfer or assignment thereof, has been or shall be duly registered under the law for the time being in force with respect to the registration of instruments affecting land.

(2) An assurance or mortgage of land in favour of any person, whether executed before or after the commencement of this Ordinance, shall not, if within twenty-one days (exclusive of Sundays and public holidays) from the date thereof it is duly registered under the law for the time being in force relating to the registration of instruments affecting land, be deemed to be a bill of sale of movable property by reason only that movable property is also affected thereby if such movable property is situated on the land dealt with by the assurance or mortgage.

CHAPTER V.

Provisions applicable to Instruments affecting Land and Bills of Sale.

Meaning of
"instrument."

24 In this chapter, unless the context otherwise requires, "instrument" means an instrument affecting land or a bill of sale.

Who may
present
instrument for
registration.

25 (1) An instrument may be presented for registration by—

- (a) any person executing the instrument ;
- (b) any person claiming any interest or benefit thereunder ;
- (c) any person having any interest in or charge on any property affected thereby ; or
- (d) the agent of any such person or a proctor or notary acting on behalf of any such person.

(2) Either the original or a duly attested or certified copy of the instrument may be presented for registration.

Provided that, in the case of a will, the probate or letters of administration with a copy of the will annexed shall be presented for registration.

(3) An instrument may be presented for registration through the post or under cover if it is accompanied by the appropriate fee, if any.

Day book.

26 (1) Each registrar shall keep a book to be called the "day book," in which shall be entered the prescribed particulars of every instrument presented for registration with the day and hour and, if required by the person presenting the instrument, the minute of presentation, and for the purpose of priority the time of presentation shall be taken as the time of registration.

(2) An instrument presented for registration through the post or under cover shall be deemed to have been presented for registration at the time when the packet containing the instrument is opened.

Return of
instruments.

27 (1) After registration, the registrar shall endorse the instrument in the prescribed manner and return it on demand to the person who presented it for registration or his agent.

(2) If the return of an instrument is not claimed within six months from the time of registration or, in the case of an instrument registered before the commencement of this Ordinance, within six months from such commencement, then—

- (a) The registrar shall send the instrument by unregistered letter addressed to the person who presented it for registration at his last known place of abode or business ; or

- (b) If his address is unknown, the registrar shall retain the instrument for a further period of six months, and if the instrument is still unclaimed, the Registrar-General may order it to be destroyed.

28 (1) An instrument which affects land or movable property situated in more districts than one may be presented for registration to the registrar of each such district, or to the Registrar-General.

Land or movable property situated in several districts.

(2) The Registrar-General shall, if the instrument is presented to him, instruct each registrar concerned as to the entry to be made in the register by him.

(3) For the purpose of determining the time of registration, the receipt by a registrar of the instructions of the Registrar-General shall be deemed to be the receipt of the instrument for registration.

(4) When the instrument has been registered by all the registrars concerned, the Registrar-General shall endorse the instrument in the prescribed manner and return it on demand to the person who presented it for registration and the immediately preceding section shall apply to the instrument.

29 (1) Any person (in this section called a "transferee") acquiring or proposing to acquire for valuable consideration from any other person (in this section called the "transferor") any interest or benefit in any land may before the execution of the instrument by the transferor with his written consent, or after the execution of the instrument by the transferor without such consent, present for registration a notice (in this Ordinance called a "priority notice") of his intention to register the instrument.

Priority notices.

(2) If at any time while a priority notice remains in force, any instrument is registered whereby the transferee or a person deriving title under him acquires for valuable consideration from the transferor or a person deriving title under him any interest or benefit in the land described in the priority notice, such instrument shall, for the purposes of this Ordinance, be deemed to have been registered on the date of registration of the priority notice, or at 4 P.M. on the date on which the instrument was executed by the transferor, whichever date shall be the later, and shall have effect accordingly.

(3) No instrument executed by the transferor while a priority notice registered with his written consent remains in force and affecting any land described in the priority notice shall, except with the written consent of the transferee, be registered while the priority notice remains in force.

(4) The registrar shall, on receiving a priority notice, register it in the same manner as other instruments, but shall retain the notice.

(5) A priority notice shall remain in force for six weeks from the date of registration of the notice, but may at any time before the end of such six weeks, before the execution of the instrument by the transferor with his written consent, or after the execution of the instrument by the transferor without such consent, be renewed by the transferee or a person deriving title under him for a further period of six weeks, and if so renewed shall remain in force for a further period of six weeks computed from the end of the first period of six weeks.

(6) If an instrument is not registered pursuant to a priority notice, while the notice remains in force, the priority notice shall be deemed to have lapsed and shall have no effect under the provisions of this Ordinance.

(7) This section shall apply to a decree, order, or will affecting land in like manner as it applies to any other instrument, except that a priority notice as to a decree, or order may not, except with the leave of the court, be lodged before delivery in court of the judgment, and a priority notice as to a will may not be lodged until after the death of the testator.

30 (1) Any person (in this Ordinance called a "caveator") may present for registration a caveat in the prescribed form requiring to be served with notice of the presentation for registration of any instrument affecting the land described in the caveat or the movable property comprised in any registered bill of sale described in the caveat.

Caveats.

(2) The registrar shall on receiving a caveat register it in the same manner as other instruments, but shall retain the caveat.

(3) A caveat shall be in force for such period as may be specified therein, not being longer than the period covered by the fee paid on the caveat.

(4) The notice to be given to the caveator shall be in the prescribed form and shall be sent by registered letter to the address mentioned in the caveat.

(5) If, while a caveat is in force, an instrument affecting the land described in the caveat or the movable property comprised in the bill of sale described in the caveat is presented for registration, and in an action commenced by the caveator in a competent court within thirty days from posting of the notice required by sub-section (4) it is proved to the satisfaction of the court that the instrument presented for registration is or was at the time of registration void or voidable by the caveator or fraudulent as against him or in derogation of his lawful rights, the court may order the instrument to be rectified or cancelled as may be necessary to preserve the rights of the caveator, and may order the necessary correction to be made in the register.

(6) Nothing in this section shall affect any other power which may be possessed by any court of ordering any instrument to be rectified or cancelled.

Cancellation of priority notices, caveats, and *lis pendens*.

31 (1) Registration of a priority notice, caveat, or *lis pendens* may be cancelled at the request of the person by or on whose behalf it was presented for registration.

(2) A District Court may, on the application of any person interested in any property affected by registration of a priority notice, caveat, or *lis pendens*, if it is satisfied that the registration was or has become unnecessary, order that the registration be cancelled. An application under this sub-section may be made in a suit or summarily under Chapter XXIV. of the Civil Procedure Code, 1889.

(3) Cancellation of a priority notice, caveat, or *lis pendens* shall be registered by the registrar in the prescribed manner.

Damages for unreasonable priority notice, caveat, or *lis pendens*.

32 Any person injured by reason of the registration or renewal of a priority notice, caveat, or *lis pendens* without reasonable cause, or by unreasonable failure to request cancellation of registration of a priority notice, caveat, or *lis pendens* may recover compensation from the person who applied for such registration or renewal. A claim for such compensation may be joined with an application for the cancellation of the notice, caveat, or *lis pendens* or may be made by suit.

Correction of errors.

33 (1) Where any person proves to the satisfaction of the Registrar-General that any error or omission has been made in registering any instrument, whether before or after the commencement of this Ordinance, the Registrar-General shall, after giving all the persons appearing from the instrument to be interested an opportunity of being heard, order such error or omission to be corrected, and the correction shall then be made by the registrar concerned in the prescribed manner.

(2) A person aggrieved by an order of the Registrar-General under this section or by his refusal to make such an order, may, within thirty days from the date of such order or refusal being communicated to him, institute in the District Court a suit praying for the variation or reversal of the decision of the Registrar-General.

Grounds for refusing to register an instrument.

34 (1) A registrar may, if he thinks fit, refuse to register an instrument—

(a) Where he has reason to suspect that the person presenting the instrument for registration is not a person who is authorized by this Ordinance to present it for registration, until such person proves his right to present it for registration ;

(b) If it does not comply with the provisions of this Ordinance or any written law affecting the form or mode of execution of such instrument.

(2) A registrar shall refuse to register an instrument—

(a) If it is liable to stamp duty, unless it is duly stamped ;

(b) Until any fee payable for registration has been paid,

35 Every registrar finally refusing to register an instrument shall make an order of refusal and record his reasons for such order in the prescribed book, and shall endorse the words "registration refused" on the instrument, and on application made by the person who presented the instrument shall without payment or unnecessary delay give him a copy of the reasons so recorded.

Reasons for refusal to be recorded.

36 (1) Any person aggrieved by an order of a registrar refusing to register an instrument may, within thirty days from the date of the order being communicated to him, appeal to the Registrar-General, who may vary or reverse the order.

Appeals against refusal.

(2) Any person aggrieved by the decision of the Registrar-General under this section may, within thirty days from the date of such decision being communicated to him, institute in the District Court a suit against the Registrar-General praying for the variation or reversal of the decision of the Registrar-General.

37 Where it is shown to the satisfaction of a District Court that any instrument registered under Chapters III. or IV. is a forgery, or has been registered without due authority or in contravention of any provision of this Ordinance, or where any instrument registered as aforesaid is rectified or set aside by a competent court, the District Court may order the registration of the instrument to be cancelled or to be rectified in such manner as the circumstances may require, and may order the original instrument to be brought into court and the endorsement of registration thereon to be cancelled or altered.

Power for District Court to cancel registration.

CHAPTER VI.

Supplementary.

38 If any volume of duplicates or copies in the custody of a registrar under Chapter II. or any volume of any book kept by a registrar under this Ordinance shall at any time be damaged or be in danger of becoming illegible, the Registrar-General may, if he thinks fit, direct a copy thereof to be made, verified, and certified in such manner as he may direct, and thereupon such copy shall be substituted for, and shall for all the purposes of this Ordinance (including this section) and every other written law be deemed to be, the volume so damaged or in danger of becoming illegible.

Copies of damaged or illegible volumes.

39 Each registrar shall keep such indexes of instruments affecting land and bills of sale registered by him as may from time to time be prescribed.

Indexes.

40 Subject to the prescribed regulations, all duplicates and copies and all books and indexes kept under this Ordinance may be searched and examined by any person claiming to be interested therein or by his proctor or agent duly authorized thereto in writing, and certified copies of or extracts from any such duplicate, copy, or book may be obtained if required.

Searches and copies.

41 (1) A copy or extract purporting to be certified under the hand of a registrar to be a true copy of or extract from any duplicate or copy preserved under this Ordinance or of or from any book kept pursuant to this Ordinance shall be admissible in evidence without proof of the signature or appointment of the registrar, and shall be *prima facie* evidence of the contents of such duplicate, copy, or book for all purposes and in all proceedings, civil or criminal, but subject to all just and lawful exceptions.

Evidence.

(2) An endorsement by the registrar in the prescribed form on a duplicate of an application for registration of a *lis pendens*, or on a duplicate of a priority notice or an application for renewal of a priority notice, or on a duplicate of a caveat shall be admissible in evidence without proof of the signature or appointment of the registrar, and shall be *prima facie* evidence of registration of the *lis pendens*, priority notice, or caveat or of the renewal of the priority notice for all purposes and in all proceedings, civil or criminal, but subject to all just and lawful exceptions.

- Indemnity of registrars. 42 No registrar shall be liable in damages by reason of anything in good faith done or refused in his official capacity.
- Costs in suits against Registrar-General. 43 No order for the payment of costs by the Registrar-General shall be made in any suit authorized by this Ordinance to be brought against him.
- Defect in appointment of registrars or procedure. 44 Nothing done in good faith pursuant to this Ordinance or the Land Registration Ordinance, 1891, or any Ordinance repealed by that Ordinance by any registrar shall be deemed invalid by reason only of a defect in his appointment or in procedure.
- Fees. 45 The fees specified in the First Schedule hereto shall be payable for the matters to which they relate.
- Power to make regulations. 46 (1) The Governor in Executive Council may make regulations, to be published in the Gazette, as to any matter which by this Ordinance may or is to be prescribed and generally for regulating the forms to be used and the procedure and practice to be observed in carrying this Ordinance into effect.
(2) All such regulations shall, as soon as conveniently may be, be laid before the Legislative Council, and may, at any of the next following three meetings, be rescinded by resolution of the Legislative Council, but without prejudice to anything already done thereunder, and if not so rescinded shall be deemed to be valid.
- Forms. 47 The forms contained in the Second Schedule shall be used with such variations as circumstances may require, but such schedule may be altered or added to by regulation.
- Repeals. 48 Ordinances Nos. 8 and 21 of 1871, No. 14 of 1891, No. 13 of 1908, No. 29 of 1917, No. 21 of 1918, No. 11 of 1919, and No. 22 of 1921 are hereby repealed.

—
FIRST SCHEDULE.

Fees.

(Section 45.)

PART I.

For the registration of the following instruments, if executed or made on or after July 1, 1919, whether before or after the commencement of this Ordinance—

- | | Rs. | c. |
|---|-----|----|
| 1. Every instrument of release, surrender, or annulment and every receipt or discharge— | | |
| Where the amount for which such instrument or receipt or discharge is given does not exceed Rs. 5,000, a fee of | 2 | 0 |
| Where it is indefinite, or it exceeds Rs. 5,000, a fee of | 5 | 0 |
| 2. Every instrument of partition, and every judgment or decree of court decreeing such partition— | | |
| For each land allotted or divided of which the value does not appear on the face of the instrument or judgment or decree, a fee of | 5 | 0 |
| For land allotted or divided of which the value appears on the face of the instrument or judgment or decree, where the aggregate value of such land does not exceed Rs. 100, a fee of | 1 | 0 |
| Where it exceeds Rs. 100 and does not exceed Rs. 250, a fee of | 2 | 0 |
| Rs. 250 and does not exceed Rs. 500, a fee of | 3 | 0 |
| Rs. 500 and does not exceed Rs. 1,000, a fee of | 4 | 0 |
| Rs. 1,000 and does not exceed Rs. 2,500, a fee of | 5 | 0 |
| Rs. 2,500 and does not exceed Rs. 5,000, a fee of | 7 | 50 |
| Rs. 5,000 and does not exceed Rs. 10,000 a fee of | 10 | 0 |
| And every further Rs. 10,000 or part of Rs. 10,000, a fee of | 10 | 0 |
| 3. <i>Lis pendens</i> , for each land affected— | | |
| Where the action is in a District Court, a fee of | 5 | 0 |
| Where the action is in a Court of Requests, a fee of | 2 | 0 |
| Where the action is in a Village Tribunal, a fee of | 0 | 50 |
| 4. A priority notice, for each land affected, a fee of | 5 | 0 |
| 5. Caveat, for each land or bill of sale affected, and for each period of six months, a fee of | 12 | 50 |
| 6. Every decree or order of court affecting land, not being a decree or order decreeing partition, and every will, a fee of | 6 | 0 |

- | | Rs. c. |
|--|--------|
| 7. Every instrument of any kind whatsoever not charged in this schedule nor expressly exempted, a fee of .. | 12 50 |
| <i>N.B.</i> —No fee shall be charged under this item for registering any instrument of sale, purchase, transfer, assignment, lease, mortgage, or bill of sale, or of promise, bargain, contract, or agreement for effecting any such object or for transferring any security, interest, or incumbrance, or of contract or agreement for a future sale or purchase or transfer. | |
| 8. An instrument presented to the Registrar-General under section 28 in addition to any other fee payable, a fee of .. | 10 0 |
| <i>N.B.</i> —When application is made to more registrars than one under section 28, any fee payable shall be collected by the first registrar. | |

PART II.

For the registration of the following instruments, if executed before July 1, 1919 :—

- | | |
|---|------|
| 1. Every instrument of sale, purchase, transfer, assignment, or mortgage of any immovable property, or of promise, bargain, contract, or agreement for effecting any such object, or for transferring any security, interest, or incumbrance affecting such property (other than a lease), or of contract or agreement for the future sale or purchase or transfer of any such property— | |
| (a) Where the consideration of the instrument is wholly in money, or where the sum recoverable upon the instrument is definite, and where such consideration or sum recoverable does not exceed Rs. 100, a fee of .. | 1 0 |
| Where it exceeds Rs. 100 and does not exceed Rs. 250, a fee of .. | 2 0 |
| Rs. 250 and does not exceed Rs. 500, a fee of .. | 3 0 |
| Rs. 500 and does not exceed Rs. 1,000, a fee of .. | 4 0 |
| Rs. 1,000 and does not exceed Rs. 2,500, a fee of .. | 5 0 |
| Rs. 2,500 and does not exceed Rs. 5,000, a fee of .. | 7 50 |
| Rs. 5,000 and does not exceed Rs. 10,000, a fee of .. | 10 0 |
| And for every further Rs. 10,000 or part of Rs. 10,000, a fee of .. | 10 0 |
| (b) Where the consideration of the instrument is not wholly in money, an additional fee of .. | 10 0 |
| (c) Where the money consideration of the instrument is not stated, but the value of the property is stated— | |
| Where such value does not exceed Rs. 100, a fee of .. | 1 0 |
| Where it exceeds Rs. 100 and does not exceed Rs. 250, a fee of .. | 2 0 |
| Rs. 250 and does not exceed Rs. 500, a fee of .. | 3 0 |
| Rs. 500 and does not exceed Rs. 1,000, a fee of .. | 4 0 |
| Rs. 1,000 and does not exceed Rs. 2,500, a fee of .. | 5 0 |
| Rs. 2,500 and does not exceed Rs. 5,000, a fee of .. | 7 50 |
| Rs. 5,000 and does not exceed Rs. 10,000, a fee of .. | 10 0 |
| And for every further Rs. 10,000 or part of Rs. 10,000, a fee of .. | 10 0 |
| (d) Where neither the money consideration of the instrument nor the value of the property is stated, a fee of .. | 20 0 |
| (e) Where the total amount of money ultimately recoverable upon the instrument is indefinite, a fee of .. | 25 0 |
| (f) Where the consideration of the instrument, or where the sum recoverable upon the instrument is a definite and certain sum of money already lent, advanced, or due, or to be lent and advanced on the execution of the instrument, together with an indefinite sum to be thereafter lent, advanced, or paid, or which may become due upon an account current, the same duty and conditions as to calculation of duty on the definite and certain sum of money already lent, advanced, or due, or to be lent and advanced on the execution of the instrument, as where the sum recoverable on the instrument is definite, together with an additional fee of .. | 25 0 |

	Rs. c.
2. Every lease, transfer, or assignment thereof—	
(a) Where the consideration is wholly in money and does not exceed Rs. 100, a fee of ..	1 0
Where it exceeds Rs. 100 and does not exceed Rs. 250, a fee of ..	2 0
Rs. 250 and does not exceed Rs. 500, a fee of ..	3 0
Rs. 500 and does not exceed Rs. 1,000, a fee of ..	4 0
Rs. 1,000 and does not exceed Rs. 2,500, a fee of ..	5 0
Rs. 2,500 and does not exceed Rs. 5,000, a fee of ..	7 50
Rs. 5 000 and does not exceed Rs. 10,000, a fee of ..	10 0
And for every further Rs. 10,000 or part of Rs. 10,000, a fee of ..	10 0
Provided that the fee shall not exceed that on a lease for five years.	
(b) Every lease, transfer, or assignment thereof, where the consideration is partly in produce, and the value of such produce is not stated in the instrument, a fee of Rs. 2.50 in addition to the fee upon the stated pecuniary consideration.	
(c) Every lease, transfer, or assignment thereof, where the consideration consists wholly of produce, a fee of ..	1 0
3. Every instrument of release, surrender, or annulment, and every receipt or discharge—	
Where the amount for which such instrument or receipt or discharge is given does not exceed Rs. 5,000, a fee of ..	1 0
Where it is indefinite or it exceeds Rs. 5,000, a fee of ..	2 50
4. Every instrument of partition, and every judgment or decree of court decreeing such partition—	
For each land allotted or divided of which the value does not appear on the face of the instrument or judgment or decree, a fee of ..	5 0
For land allotted or divided of which the value appears on the face of the instrument or judgment or decree, where the aggregate value of such land does not exceed Rs. 100, a fee of ..	1 0
Where it exceeds Rs. 100 and does not exceed Rs. 250, a fee of ..	2 0
Rs. 250 and does not exceed Rs. 500, a fee of ..	3 0
Rs. 500 and does not exceed Rs. 1,000, a fee of ..	4 0
Rs. 1,000 and does not exceed Rs. 2,500, a fee of ..	5 0
Rs. 2,500 and does not exceed Rs. 5,000, a fee of ..	7 50
Rs. 5,000 and does not exceed Rs. 10,000, a fee of ..	10 0
And for every further Rs. 10,000 or part of Rs. 10,000, a fee of ..	10 0
5. Every instrument of any kind whatsoever not charged in this schedule nor expressly exempted, a fee of ..	10 0
6. Every judgment or order of court affecting immovable property, and every probate of a will or letters of administration, a fee of ..	5 0
7. An instrument presented to the Registrar-General under section 28, in addition to any other fee payable, a fee of ..	10 0
N.B.—When application is made to more registrars than one under section 28 any fee payable shall be collected by the first registrar.	

PART III.

1. (a) An application to inspect the duplicates attested during a period not exceeding 12 months by any one judge, commissioner, notary, or public officer, a fee of ..	1 0
(b) And in respect of each additional period of 12 months or part of such period, an additional fee of ..	0 50
2. An application to inspect any number not exceeding five volumes of any book kept under Chapters III. or IV., a fee of ..	1 0
And for every additional five volumes or less number, an additional fee of ..	0 25

	Rs.	c.
3 (a) For supplying certified copies of extracts, for every folio or part of a folio of 120 words, a fee of	0	50
(b) For each copy of a plan on tracing paper, a fee of	1	0
(c) For each copy of a plan on drawing paper, a fee of	3	0
With, in each case, (a), (b), or (c), an additional fee for each certificate of	1	0
4. For supplying an endorsement of registration of a <i>lis pendens</i> , priority notice, or caveat under section 41 (2)	5	0

SECOND SCHEDULE.

Forms.

(Section 47.)

FORM I.

Application for Registration of a *lis pendens*.

(Section 10.)

To the Registrar of Lands of _____.

I (full name, occupation, and postal address) hereby apply for registration of the *action (give parties, court, and reference number of action) as a *lis pendens* affecting the following land in your district (describe land as in section 13):—

Dated _____ Signature of applicant or his proctor.

* In the case of a partition action the word "partition" should be inserted.

FORM II.

Endorsement of Registration of a *lis pendens* on a Duplicate of the Application for Registration.

(Section 41.)

Registered as a *lis pendens* on (date) in (reference to folio).

(Signature.)

Dated _____ Registrar of Lands of _____.

FORM III.

Priority Notice.

(Section 29.)

To the Registrar of Lands of _____.

Take notice under the Registration of Documents Ordinance, No. _____ of 1927, that I (full name, occupation, and postal address in Ceylon of transferee) intend to present to you for registration within six weeks from the date of registration of this notice an instrument whereby I or a person deriving title under me will acquire for valuable consideration an interest or benefit from (full name, occupation, and address of transferor) in (describe land giving the particulars required by section 13).

Signature of applicant or his proctor or notary.

Dated _____.

Signed by the above-named _____ in the presence of (full names and addresses of two witnesses).

1. Signature of first witness :
2. Signature of second witness :

(Add where the instrument has not been executed by the transferor.)

And I (name and address in full) being the transferor described in the above-written priority notice hereby consent to the registration of such priority notice.

Dated _____ Signature.

Signed by the above-named _____ in the presence of (full names and addresses of two witnesses).

1. Signature of first witness :
2. Signature of second witness :

FORM IV.

Endorsement of Registration of a Priority Notice on Duplicate.

(Section 41.)

Registered on (date) in (reference to folio).

(Signature.)

Dated _____ Registrar of Lands of _____.

FORM V.

Application for Renewal of Priority Notice.

(Section 29.)

To the Registrar of Lands, of _____.

I (*full name, occupation, and postal address of transferee*) hereby apply for the renewal of the priority notice dated _____ and registered in (*give reference to volume and folio*) for a further period of six weeks.

Signature of applicant or his proctor or notary.

Dated _____.

Signed by the above-named _____ in the presence of (*full names and addresses of two witnesses*).

1. Signature of first witness :
2. Signature of second witness :

(*Where the instrument has not been executed by the transferor, add his consent as in Form III.*)

FORM VI.

Endorsement of Renewal of a Priority Notice on Duplicate of Application for Renewal.

(Section 41.)

Renewed on (*date*).

(Signature.)

Dated _____ Registrar of Lands of _____.

FORM VII.

Form of Caveat.

(Section 30.)

Take notice that I (*full name and address of caveator*) require to be served with notice of the presentation for registration of any instrument affecting (*describe land as in section 13 or give reference to date and number of bill of sale*).

This caveat is to remain in force for a period of _____.

And I appoint (*here state postal address in Ceylon*) as the place at which notices relating hereto should be sent.

Signature of caveator or his proctor or notary.

Dated _____.

Signed by the above-named _____ in the presence of (*full names and addresses of two witnesses*).

1. Signature of first witness :
2. Signature of second witness :

FORM VIII.

Endorsement of Registration of a Caveat on Duplicate.

(Section 41.)

Registered on (*date*) in (*reference to folio*).

(Signature.)

Dated _____ Registrar of Lands of _____.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, March 1, 1927.

A. G. M. FLETCHER,
Colonial Secretary.

Statement of Objects and Reasons.

THIS Ordinance reproduces in an amended and consolidated form the substance of the Land Registration Ordinance, 1891, as amended by Ordinances Nos. 13 of 1908, 29 of 1917, 21 of 1918, 11 of 1919, and 22 of 1921, and Ordinances Nos. 8 and 21 of 1871 relating to the registration of bills of sale.

2. The new Ordinance does not make any fundamental alteration in the present law, but introduces a large number of alterations in detail.

3. The most important alterations are—

- (a) Section 8 widening the class of instruments which will require registration so as to include all instruments which can possibly affect a subsequent purchaser, but introducing exceptions in the favour of letters of administration to the estate of an intestate, decrees where the action has been registered as a *lis pendens*, appointments of an assignee in insolvency debentures and similar documents, and monthly tenancies;
- (b) Section 9 providing, in effect, that an unregistered will shall not be defeated by a disposition by the heir unless at the date of such disposition, being not less than one year after the death of the testator, letters of administration granted on the footing that the testator died intestate have been registered. This provision will, to some extent, obviate the difficulty raised by the decision in *Fonseka v. Cornelis*, 20 N. L. R. 97, that a registered conveyance by the heir over-rides a will the probate of which has not been registered, thus enabling the heir fraudulently to over-ride a *fidei commissum* created by the will;
- (c) Section 10 enabling a *lis pendens* to be registered as soon as the plaint has been accepted by the court, but before it has been served on the defendant;
- (d) Section 11 making registration of a partition action as a *lis pendens* compulsory so as to obviate the danger to purchasers arising from section 17 of the Partition Ordinance, No. 10 of 1863, which avoids the alienation of undivided shares *pendente lite*;
- (e) Section 16 (2) excepting a contract of sale of goods made in the ordinary course of business from the requirement of registration as a bill of sale;
- (f) Section 20 legalizing bills of sale of future or after acquired movable property;
- (g) Section 29 introducing the system of "priority notices" whereby an intending purchaser or mortgagee can obtain priority of registration for his deed by registering a priority notice of his intention to register the deed, the registration of the deed then relating back to the date of the priority notice or of the deed, whichever is the later;
- (h) Section 30 revising the law as to caveats; and
- (i) Section 33 enabling the Registrar-General to make corrections in the registers, subject to appeal to the District Court.

CHAPTER I.

4. Section 2 reproduces the substance of sections 3 and 4 of Ordinance No. 14 of 1891. Section 5 of that Ordinance requiring the Registrar-General and Registrars to take the oath of office is not reproduced. Section 2 (7) enables powers conferred on the Registrar-General of Lands to be exercised by the Assistant Registrars-General, subject to the directions of the Registrar-General. Sections 9 to 12 of Ordinance No. 14 of 1891 relating to preliminary surveys for the purpose of registration of titles under Ordinance No. 5 of 1877 have not been reproduced. These surveys have been found too expensive, and no new surveys have been made for many years. Moreover the provisions of Ordinance No. 5 of 1877 have not worked well, the tendency being to ignore its provisions and to continue, notwithstanding registration under Ordinance No. 5 of 1877, to treat Ordinance No. 14 of 1891 as being applicable.

5. The definition of land in section 3 is new.

CHAPTER II.

6. Section 4 (1) reproduces the substance of section 13 of Ordinance No. 14 of 1891. The provision that duplicates sent to the Registrar of Lands shall be accompanied by two copies of a list of such duplicates is new.

7. Section 4 (2) requiring a public officer before whom any document affecting land is executed to send a duplicate of such document to the Registrar of Lands is new. Under various Ordinances instruments affecting land are executed before a public officer, but no provision is made for duplicates of such documents to be recorded.

8. Section 5 represents section 14 of Ordinance No. 14 of 1891. Provision for searches is made in Chapter VI.

CHAPTER III.

9. Section 7 reproduces the existing law (section 17 of Ordinance No. 14 of 1891) as to the effect of non-registration *i.e.*, that unregistered instruments shall be void as against all parties claiming an adverse interest thereto on valuable consideration by virtue of any subsequent instrument which is duly registered.

10. Section 8 (a) specifies the instruments which require registration under the existing law (section 16 of Ordinance No. 14 of 1891). The expression "will disposing of any land" has, however, been substituted for "the probate of any will." It is the will and not the probate which disposes of the land, the probate being merely evidence of the will. In view of the definition of land in section 3, the reference to immovable property in section 16 of Ordinance No. 14 of 1891 has not been reproduced.

11. Section 8 (b) specifies the instruments which will require registration under the new law. The new provision is wider than the old law and will include all instruments which can possibly affect a subsequent purchaser. One of the main objects of a deeds registration system is to insure that an intending purchaser may know the exact state of the title. The present law appears to be seriously defective in this respect. It has been held not to apply to judgments declaring title (*Mohamed Ali v. Weerasuriya*, 17 N. L. R. 417), and it is open to doubt whether it applies to deeds creating servitudes, &c. It also appears not to apply to letters of administration with the will annexed.

12. On the other hand the new law excludes several instruments which appear to require registration under the present law, but ought, it is considered, to be excluded. Among others may be mentioned decrees or orders made in an action which is registered as a *lis pendens*, shares and debentures of companies, receipts for mortgage money when the mortgage is not extinguished, a tenancy at will, and a monthly tenancy.

13. An important alteration is made by excluding letters of administration to the estate of an intestate from the requirement of registration. Registration of such letters appears to serve no useful purpose. A purchaser from an heir knows that his title is liable to be defeated by a sale by the administrator for the payment of the deceased's debts. It is, therefore, his duty, if he wishes to be safe, to insist on the administrator joining in the sale.

14. It was decided in *Fonseka v. Cornelis*, 20 N. L. R. 97, that an unregistered probate is defeated by a subsequent registered disposition by the heir. This state of the law renders it possible for an heir fraudulently to defeat a will.

15. Section 9 will, to a great extent, prevent this. It provides that a disposition by the heir shall not defeat an unregistered will unless at the time of the disposition, being not less than one year after the death of the testator, letters of administration to the estate of the intestate granted on the footing that he had died intestate were registered.

16. Section 10 (dealing with *lis pendens*) represents section 27 A of Ordinance No. 14 of 1891. November 9, 1917, is the date on which the registration of a *lis pendens* first became necessary (see Ordinance No. 29 of 1917). Section 10 (6) and (7) allow registration of a *lis pendens* at any time after the plaint has been accepted by the court under the Civil Procedure Code. This alters the present law under which a *lis* does not become *pendens* until the plaint has been served on the defendant (see *Muheeth v. Nadarajapillai et al.*, 19 N. L. R. 461). The object of the change is to prevent fraudulent alienation by a defendant who may be evading service for the very purpose. Section 31 confers power on a District Court to cancel the registration of a *lis pendens*, and section 32 gives a right of action for damages to any person injured by the registration of a *lis pendens* without reasonable cause. "Purchaser" is now defined so as to include any person who, for valuable consideration, takes any interest in or charge over any land.

17. Section 11 rendering it obligatory to register a partition action as a *lis pendens* is new. It is obvious that, unless a partition action is registered as a *lis pendens*, serious injustice may be caused to the purchaser of an undivided share, the sale being void under section 17 of Ordinance No. 10 of 1863.

18. Section 12 represents section 15 of the Ordinance No. 14 of 1891. But the provision requiring duplicate books to be kept in Colombo, having fallen into disuse for many years, is omitted.

19. Section 13 represents section 23 of Ordinance No. 14 of 1891. But the Registrar-General is now required to sanction registration of an instrument which does not contain the prescribed description if it is shown to his satisfaction, (a) that the description is sufficient to enable the land to be identified with reasonable certainty, or (b) that it was impracticable to insert the required particulars in the instrument. His decision is subject to appeal to the District Court. As regards future instruments it is made compulsory to place the description of the land in a schedule. If this is not done, a special fee of five rupees will be charged for the registration to cover the cost of the extra work involved.

20. Section 24 of Ordinance No. 14 of 1891 is not reproduced, the matter being dealt with by section 29 (16) of the Notaries Ordinance, No. 1 of 1907.

21. Section 14 (1) represents the latter part of section 18 (1) of Ordinance No. 14 of 1891. Paragraphs (a) and (b) of the proviso express what has been the practice for many years. Sub-section (3) requiring orders embodying agreements made under section 4 of Ordinance No. 1 of 1897 (Waste Lands) to be registered in a new folio to be allotted by the registrar is new. In practice it is almost impossible to ascertain with certainty in what folio earlier instruments affecting the land have been registered. The sub-section does not apply where the title of the claimant to the land is admitted without agreement, the reason being that such an admission does not confer any title on the claimant as against other persons.

22. Section 14 (2) providing, in effect, that an instrument is not duly registered unless it is registered in the "proper folio" is believed to express the present law.

CHAPTER IV.

23. This chapter reproduces the substance of Ordinances Nos. 8 and 21 of 1871 relating to registration of bills of sale. Those Ordinances require bills of sale of movables of which immediate possession is not taken by the grantee to be registered, but contain no details as to the method of registration. In practice, the provisions of Ordinance No. 14 of 1891 relating to the registration of instruments affecting land have been applied to bills of sale. It seems convenient that this practice should be legalized, and that all provisions relating to registration of documents should be comprised in one Ordinance.

In considering the Ceylon law as to bills of sale, it must be remembered that in Ceylon registration of a mortgage bill of sale of movables does not prevent the borrower from subsequently selling the movables to another person who, if he obtains possession, can hold the movables free from the mortgage. Registration of a bill of sale is, therefore, more for the purpose of giving notice of the transaction to creditors generally than for protecting the mortgagee.

24. Section 16 (1) represents section 6 of Ordinance No. 8 of 1871 and section 4 of Ordinance No. 21 of 1871. Section 16 (2) represents section 7 of Ordinance No. 8 of 1871.

25. It is open to considerable doubt whether a written contract of sale of goods, where the property in the goods passes to the purchaser, is not a bill of sale within Ordinance No. 8 of 1871, the express exception of "transfers of goods in the ordinary course of business of any trade or calling" in the English Act (Bills of Sale Act, 1878, s. 4) finding no place in Ordinance No. 8 of 1871. Section 16 (2) of the new Ordinance settles the question by excepting "contracts of sale of goods within the meaning of the Sale of Goods Ordinance, 1896, and made in the ordinary course of any business, trade, or calling." The new section 16 (1) by inserting the words "whether absolute or by way of mortgage or otherwise" also makes it plain that the law applies to absolute assignments as well as to mortgages. See *Darley, Butler & Co. v. Silva*, 1908, 11 New Law Reports 316. Section 16 (2) also exempts all bills of sale, and not merely hypothecations, as under the old law, of registered ships and goods in foreign parts or at sea.

26. Section 17 represents section 2 of Ordinance No. 8 of 1871. But the time for registration of a bill of sale has been extended from fourteen to twenty-one days. It is often found difficult to effect registration in fourteen days, particularly when the property is situated in more than one district, though this difficulty will now be removed by section 28. Section 4 of Ordinance No. 8 of 1871 required all bills of sale executed before the commencement of that Ordinance to be registered within three months. It follows that all bills of sale, whenever executed, require registration. Accordingly sections 17 and 18 of the new Ordinance are made applicable to all bills of sale whenever executed, and section 4 of Ordinance No. 8 of 1871 is omitted.

27. Section 18 represents section 3 of Ordinance No. 8 of 1871. Section 19 preserves the effect of registrations under earlier Ordinances.

28. Section 2 of Ordinance No. 8 of 1871 required a bill of sale to be registered in the district in which the property was situated *at the time of the bill of sale*. The effect of this was, probably, to avoid all bills of sale of after acquired property or of property not in existence at the date of the bill of sale (*e.g.*, a mortgage of a stock in trade). Section 20 (1) of the new Ordinance legalizes such bills of sale, but the bill of sale will not affect after acquired property until it is brought into the district in which the bill of sale is registered. As it is believed that a large number of bills of sale in existence purport to include after acquired property, this provision has been made retrospective, but will not affect a title for value acquired before the commencement of the new Ordinance.

29. Section 22 requires the movable property affected by a bill of sale to be described in a schedule, and imposes a registration fee of five rupees where this is not done.

30. Section 23 (1) reproduces, as regards bills of sale executed before the commencement of the new Ordinance, the provisions of section 1 of Ordinance No. 21 of 1871 to the effect that a bill of sale should not be invalid for want of registration if it was effected by an instrument which was duly registered as an assurance of land. It is obvious that this provision to a great extent defeats the object of the Ordinance, as the movable property comprised in a mortgage of land might not be situated in the same district as the land. For instance, a mortgage of a tea estate in the hills might well comprise stocks of tea in a warehouse at Colombo. Accordingly the operation of section 23 (1) is confined to past

bills of sale, while section 23 (2) provides, as regards future instruments, that a duly registered assurance of land shall not be deemed to be a bill of sale by reason only that movable property is also affected by the assurance if such movable property is situated on the land dealt with by the assurance.

It should be noticed that growing crops are not affected by this chapter (section 16 (2)).

CHAPTER V.

31. This chapter contains provisions applicable both to instruments affecting land and to bills of sale. Section 25 represents section 18 (1) of Ordinance No. 14 of 1891. The class of persons who may present an instrument for registration has, however, been considerably extended. The words in the old section "gaining an interest or benefit under" appear to be unnecessarily restrictive and would prevent a purchaser from presenting for registration a prior unregistered deed forming a link in his title.

32. Section 25 (3) legalizes the presentation of an instrument for registration by post.

33. Section 26 requires each registrar to keep a day book in which is to be entered the time when the instrument was presented for registration. The provision enabling a person to require the minute of presentation to be recorded is new.

34. Section 27 (1) represents section 19 of Ordinance No. 14 of 1891.

35. Section 27 (2) authorizing the return by unregistered post of an instrument not claimed within six months, or if the owner's address is unknown, its destruction after a further six months is new. The storage of unclaimed deeds has become a serious matter.

36. Section 28 (as to instruments affecting land in more districts than one) represents section 21 of Ordinance No. 14 of 1891. See also end of Part I. of the First Schedule. The provision has been extended to movable property.

37. Section 29 is a new and important provision introducing the system of "priority notices." Under the present law there is no means whereby a purchaser or mortgagee can protect himself against the registration of unregistered deeds in the interval between execution and registration of his deed. Section 29 obviates this difficulty by allowing an intending purchaser or mortgagee to register a "priority notice" of his intention to register his deed. In such case if at any time within six weeks from registration of the priority notice the deed is registered, such registration will relate back to the date of registration of the priority notice or to the date of the execution of the deed, whichever is the later. For instance, a purchaser contracts to buy a piece of land in January. He then registers a priority notice, and on February 1 obtains his conveyance which is presented for registration on February 15. Under section 29 the deed will be deemed to have been registered on February 1. The provision applies to wills affecting land, except that the priority notice cannot be registered until the death of the testator, and to decrees and orders affecting land. Section 31 confers power on a District Court to cancel registration of a priority notice, and section 32 gives a right of action for damages to any person injured by the registration of a priority notice without reasonable cause. The duration of a priority notice may be extended for a further period of six weeks.

A priority notice can only be registered before completion of the sale or mortgage with the consent of the vendor or mortgagor. But a priority notice which is registered before completion will have the important effect of preventing the registration, while the priority notice remains in force, of any instrument executed by the vendor or mortgagor after registration of the priority notice and affecting the land described in

the priority notice. This will protect the purchaser against a transfer by the vendor pending completion of the sale. There is no need for a vendor or mortgagor to consent to registration of a priority notice before completion unless he so desires. But if he does so, he will in effect be bound to the purchaser or mortgagee in the same manner as if he had executed a notarially executed contract in favour of the purchaser or mortgagee.

Priority notices are not applicable to movable property. As registration of a bill of sale confers no priority, there is no object in making registration relate back to the date of execution of the bill of sale.

38. Section 30 amends the law as to caveats. The present law (section 25 of Ordinance No. 14 of 1891) enables any person to lodge a caveat to prevent the registration of any instrument subsequently tendered for registration. Some such provision seems to be necessary in order that a person claiming under an unregistered instrument may be able to prevent fraudulent alienations which, if once registered, would defeat his rights. The present provision, however, goes much farther than is necessary, and enables any person arbitrarily to prevent land from being dealt with and is open to abuse. It is believed to have been largely used by unsecured creditors with a view to putting pressure on their debtors. The present law is also open to the objection that no provision is made for a postponed registration relating back. This defect might let in a competing deed of later date and cause serious injustice.

The new provision (section 30) permits registration of a caveat requiring to be served with notice of the presentation for registration of any instrument. If, while the caveat is in force, any instrument is registered, and in an action commenced by the caveator within thirty days it is proved that the instrument is void or voidable by the caveator or fraudulent as against him or is in derogation of his lawful rights, the court may order the instrument to be rectified or cancelled and the necessary correction to be made in the register.

By section 30 (3) the caveat will remain in force for such period as is covered by the fee, instead of for six months as at present. The existing fee of rupees twelve and cents fifty for six months is retained.

Section 31 confers power on a District Court to cancel a caveat.

Section 32 gives a right of action for damages to any person injured by the registration of a caveat without reasonable cause.

39. Section 33 confers power on the Registrar-General to correct errors in the register, subject to appeal to the District Court. The present law provides no means for correcting a register. The result is that the parties have to execute a deed cancelling or varying the earlier deed.

40. Section 34 is founded on section 18 (2) of Ordinance No. 14 of 1891, and gives power for a registrar to refuse to register an instrument—

- (a) Where he has reason to suspect that the person presenting the instrument is not authorized to do so; or
- (b) If it does not comply with the Ordinance or any law affecting the form or mode of execution of the instrument.

The power given by section 18 (2) of Ordinance No. 14 of 1891 for a registrar to require proof of the due execution of the instrument and the obligation thereby imposed on him to give notice of a fraud, which he may have reason to apprehend is about to be committed are omitted. Both provisions are foreign to the Ceylon system, under which registration does not of itself give any validity to an instrument which it would not otherwise have had.

Section 36 gives a right of appeal to the Registrar-General, and from him to the District Court, against the refusal of a registrar to register an instrument.

41. Section 37 confers power on a District Court to order the rectification or cancellation of the registration of an instrument which is proved to be a forgery or has been rectified or set aside by a competent court.

CHAPTER VI.

42. Section 38 provides for the making of copies of illegible or damaged registers.

43. Section 39 provides for indexes, and section 40 for searches and certified copies. Section 41 provides for the admission of certified copies in evidence. Section 41 (2) affords a simple way of proving registration of a *lis pendens*, priority notice, or caveat by endorsement on a duplicate of the application for registration.

44. Section 42 indemnifies a registrar against anything done officially in good faith.

45. Section 43 provides that no order for payment of costs by the Registrar-General shall be made in any suit brought against him under the Ordinance (see sections 13 (5) and 36 (2)), such suits being in the nature of appeals against judicial decisions of the registrar.

46. Section 44 validates things done in good faith by a registrar notwithstanding a defect in his appointment or in procedure.

FIRST SCHEDULE.

47. Part I. reproduces Schedule III. added to Ordinance No. 14 of 1891 by Ordinance No. 11 of 1919.

Paragraph 2 makes it clear that in partition deeds and decrees the fixed fee of Rs. 5 is payable for each land of which the value is not specified, and that the *ad valorem* duty is payable on the aggregate value of the lands of which the value is specified and not on the value of each land taken separately. The latter construction has been ruled to be the correct one under the present law, but probably does not represent the intention of the Legislature.

48. Part II. reproduces the schedule of fees for instruments executed before July 1, 1919 (see page 96 of Volume II. of the Consolidated Laws). The same alteration has been made in the fees payable on instruments of partition.

49. Part III. specifies the fees for searches and certified copies. In accordance with the recommendation of the Fees Revision Committee the fee for searches has been raised. The fee for the search of duplicates kept under Chapter II. will now be one rupee for the first period of twelve months and fifty cents for each additional twelve months, instead of one rupee for an unlimited period (section 35 of Ordinance No. 14 of 1891).

Similarly the fee for the search of registers kept under Chapters III. or IV. will now be one rupee for the first five volumes and twenty-five cents for every additional five volumes.

50. Section 28 of Ordinance No. 14 of 1891 requiring lists of executors, administrators, guardians, and curators to be kept by Registrars of Lands has been omitted, it having been found that the lists are seldom used by proctors or the public.

51. Section 29 of Ordinance No. 14 of 1891 requiring lists of Crown debtors to be kept at the land registries has also been omitted, the provision having been found to be impracticable and having fallen into disuse for many years.

Attorney-General's Chambers,
Colombo, December 14, 1926.

L. H. ELPHINSTONE,
Attorney-General.

R 30/1927

MINUTE.

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

By His Excellency's command,
Colonial Secretary's Office, A. G. M. FLETCHER,
Colombo, March 23, 1927. Colonial Secretary.

An Ordinance to Incorporate the Young Men's Buddhist Association, Colombo.

Preamble.

WHEREAS an association, called and known as "The Young Men's Buddhist Association, Colombo," has heretofore been established at Colombo for the purpose of effectually carrying out and transacting all matters connected with the said association according to the rules agreed to by its members:

And whereas the said association has heretofore successfully carried out and transacted the several objects and matters for which it was established, and has applied to be incorporated, and it will be for the public advantage to grant the application:

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

Short title.

1 This Ordinance may be cited for all purposes as "The Young Men's Buddhist Association, Colombo," Ordinance, No. of

Incorporation of the Young Men's Buddhist Association, Colombo.

2 From and after the passing of this Ordinance the President, Vice-Presidents, and members of the Committee of Management for the time being of the said Young Men's Buddhist Association, Colombo, and such and so many persons as now are members of the Young Men's Buddhist Association, Colombo, or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of the "Young Men's Buddhist Association, Colombo," and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at their pleasure.

General objects of the corporation.

3 The general objects for which the corporation is constituted are hereby declared to be (a) the study and propagation of Buddhism, (b) the encouragement of the practical observance of Buddhism, (c) the promotion of unity and co-operation among Buddhists, and (d) the advancement of the physical, intellectual, and social welfare of the members.

Committee of Management.

4 (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be administered by a Committee of Management consisting of the President, five Vice-Presidents, the Honorary General Secretary, and Honorary Treasurer respectively of the corporation and not less than seventeen other members, to be elected respectively in accordance with rules for the time being of the corporation.

(2) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

(3) The first Committee of Management shall consist of D. B. Jayatilaka, Esq., M.A., M.L.C., President; W. A. de Silva, Esq., J.P., M.L.C.; Dr. C. A. Hewavitarne, M.R.C.S.; D. C. Senanayake, Esq.; A. E. de Silva, Esq., B.A.; D. S. Senanayake, Esq., M.L.C., Vice-Presidents; C. Victor Perera, Esq., Honorary General Secretary. T. W. Gunawardene Esq., J.P., Mudaliyar, Honorary Treasurer. Dr. D. B. Perera; Chas. Dias, Esq., Proctor; N. J. V. Cooray, Esq., Proctor; H. A. de Abrew, Esq.; J. D. A. Abeywickrama, Esq.; S. B. Ranasinha, Esq.; R. S. S. Gunawardana, Esq., B.A.,

Advocate; H. Guneratna, Esq., Mudaliyar; J. N. Jinendradasa, Esq.; D. N. W. de Silva, Esq.; Thomas Rodrigo, Esq., Mudaliyar; W. E. Bastian, Esq., V. S. Nanayakkara, Esq.; L. A. Jayasekara, Esq.; D. C. Abeygunawardana, Esq.; and D. N. Hapugala, Esq.

5 It shall be lawful for the corporation from time to time, at any general meeting of the members, and by a majority of votes to make rules for the admission, withdrawal, or expulsion of members; for the conduct of the duties of the Committee of Management and of the various officers, agents, and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, and cancelled, subject, however, to the requirements of section 7.

Power to make rules.

6 Subject to the provisions in the preceding section contained, the rules set forth in the schedule hereto shall for all purposes be the rules of the corporation, provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the schedule hereto or to be hereafter made by the corporation.

Rules in the schedule to be the rules of the corporation.

7 No rules in the schedule hereto, nor any rule hereafter passed at a general meeting, shall be altered, added to, amended, or cancelled, except by a vote of two-thirds of the members present at a general meeting of the association, provided that such amendment shall have been previously approved by the Committee of Management.

Procedure for amendment of rules.

8 On the coming into operation of this Ordinance all and every the property belonging to the said Young Men's Buddhist Association, Colombo, whether held in the name of the said Young Men's Buddhist Association, Colombo, or in the name or in the names of any person or persons in trust for the said Young Men's Buddhist Association, Colombo, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after acquired property, both movable and immovable, and all subscriptions, contributions, donations, amounts of loan, and advances received or to be received, shall be held by the said corporation for the purposes of this Ordinance and subject to the rules in force for the time being of the said corporation.

Property vested in corporation.

9 All debts and liabilities of the said Young Men's Buddhist Association, Colombo, existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the said "Young Men's Buddhist Association, Colombo," shall be paid to the said corporation for the purposes of this Ordinance.

Dues due by and payable to the corporation.

10 The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the Committee of Management, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

11 The corporation shall be and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

12 Nothing in this Ordinance contained shall prejudice or affect the rights of His Majesty the King, his heirs, and successors, or of any body politic or corporate or of any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving as to the rights of His Majesty and others.

SCHEDULE.

Rules of the Young Men's Buddhist Association, Colombo.

1. *Designation.*—This association shall be called "The Young Men's Buddhist Association, Colombo."

2. *Objects.*—The objects of this association shall be—

- (a) The study and propagation of Buddhism.
- (b) The encouragement of the practical observance of Buddhism.
- (c) The promotion of unity and co-operation among Buddhists.
- (d) The advancement of the physical, intellectual, and social welfare of members.

3. *Membership.*—(a) Men, not less than eighteen years of age, having any or all of the above objects in view, are eligible for membership.

(b) Members shall be classified as honorary, active, and life members.

(c) Any person who has rendered distinguished service to the cause of Buddhism may be elected as an honorary member at a General Meeting of the association.

(d) Active members shall pay a minimum subscription of Re. 1 a month, or Rs. 10 a year or Rs. 5 a half year; payable in advance during the first month of each period.

(e) Any person who gives a donation of not less than Rs. 200 to the association may be elected as a life member.

(f) Every application for membership, countersigned by a member as referee, shall be forwarded to the Honorary General Secretary, who shall submit it to the Committee of Management for approval.

(g) If an active member be in arrears of subscription for a period of six months, his name may be removed from the roll of members after giving him a fortnight's notice. He may not be re-elected until the arrears due from him are paid.

(h) The name of any member whose conduct is found to be detrimental to the interests of the association may after investigation be suspended or removed from the roll by the Committee of Management at a meeting of the same specially convened for the purpose, if two-thirds of those voting approve of such suspension or removal, voting being by ballot. The quorum at such a meeting shall be not less than ten members.

4. *Management.*—(a) The affairs of the association shall be administered by a Committee of Management consisting of a President, five Vice-Presidents, an Honorary General Secretary, and an Honorary Treasurer, who shall be *ex officio* members of the Committee of Management, and seventeen members, to be elected at the Annual General Meeting of the association. They shall hold office for one year or until their successors shall have been elected and have entered upon their duties.

(b) The various activities of the association shall be in charge of Departmental Committees consisting of five members each, of whom four shall be elected at the Annual General Meeting and the other nominated by the Committee of Management from among its members. Such nominee of the Committee of Management shall be the Secretary and Convener of the Committee to which he is appointed.

(c) All officers and members of Committees shall be Buddhists.

(d) The President, or in his absence one of the Vice-Presidents, shall be the Chairman at the meetings of the association. If neither the President nor one of the Vice-Presidents be present, a member shall be voted to the chair. The Chairman shall have a casting vote.

(e) The Honorary General Secretary shall keep a record of all meetings of the association and of the Committee of Management, a register of members, and any other record that may be necessary.

(f) The Honorary Treasurer shall receive and keep accounts of all moneys and funds belonging to the association, and shall make such payments as are authorized by the Committee of Management. He shall prepare and submit a duly audited statement of accounts at the Annual General Meeting, and his books shall be open to the inspection of members at all reasonable times.

(g) Meetings of the Committee of Management shall be held at least once a month. Upon the written requisition of three members of the Committee of Management the President shall have a meeting of the Committee convened to transact such business as is intimated in the notice calling the meeting. Five days' notice shall be given to the members of any such special meeting. Five members shall form the quorum at all meetings of the Committee of Management.

(h) In the case of any vacancies occurring during the year among the Officers or in the Committee of Management, or in Departmental Committees, the Committee of Management shall have power to fill such vacancies for the unexpired term.

(i) The Committee of Management shall have power to make rules for its own government and for the management of the association and its departments provided that such rules are not inconsistent with this constitution.

(j) The Committee of Management shall hold and administer for the purposes of the association all property belonging to the association. It shall also have power, with the consent of a two-thirds majority of members present at a General Meeting of the association, to sell, mortgage, lease, exchange or otherwise dispose of the immovable property belonging to the association. Provided that such decision be confirmed at a subsequent General Meeting held within one month.

5. *General Meetings of the Association.*—(a) The Annual General Meeting of the association shall be held in the month of February, at which the reports of the Committee of Management and of the Honorary Treasurer shall be presented.

(b) The Honorary General Secretary shall convene a General Meeting of the association upon the request of the Committee of Management, or upon the written requisition of not less than twenty-five members.

(c) A fortnight's notice shall be given of any general meeting, and twenty members shall constitute the quorum at such meeting.

6. *Auditor.*—The members shall elect at the Annual General Meeting of the association a qualified auditor, who shall audit the accounts of the association for the ensuing year. In the event of an auditor so appointed not being able to act through any cause, the Committee of Management shall have power to elect another auditor.

7. *Branches.*—Branch associations may be established wherever possible in the Island under such conditions as shall be determined by the Committee of Management. All such associations shall be worked on the same principles as defined in these rules. A certificate of affiliation shall be issued to branches so formed.

8. *Amendment of Constitution.*—This constitution can be amended or altered only by a vote of two-thirds of those present at a General Meeting of the association, provided that such amendment shall have been previously approved by the Committee of Management. A fortnight's notice shall be given to the members of any proposed alteration of the rules.

Statement of Objects and Reasons.

THE Young Men's Buddhist Association, Colombo, was established in 1898 with the following objects:—(a) The study and propagation of Buddhism; (b) the encouragement of the practical observance of Buddhism; (c) the promotion of unity and co-operation among Buddhists; (d) the advancement of the physical, intellectual, and moral welfare of the members. It has a large number of members, and has acquired valuable property, movable and immovable, in Colombo and elsewhere, which is now held by trustees for the association. It is desirable that it should now be incorporated by law.

The Ordinance sets forth the general objects of the corporation (section 3), defines the constitution of the Committee of Management (section 4), prescribes the rules given in schedule to be rules of the corporation (section 6), and vests in the corporation the property now held in trust for the association.

D. B. JAYATILAKA,
Mover of the Bill.

Colombo, February 25, 1927.

DISTRICT AND MINOR COURTS NOTICE.

NOTICE is hereby given that a suit has been instituted in the Court of Requests of Matale by 29 labourers of Keppitigalla estate, Matale, against the proprietors of Keppitigalla estate, Matale, under the Ordinance No. 13 of 1889, for the recovery of their wages, amounting to Rs. 300.

Matale, March 30, 1927.

A. KANAGASABAY,
Chief Clerk.

NOTICES OF INSOLVENCY.

In the District Court of Colombo.

No. 3,498. In the matter of the insolvency of Lionel de F. Peiris of 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 May 10, 1927, for proof of claim of M. R. R. M. Murugappa Chetty of Sea street, Colombo.

By order of court, A. C. BELING,
Colombo, April 2, 1927. Acting Secretary.

In the District Court of Colombo.

No. 3,506. In the matter of the insolvency of M. Jamaal Mohideen of 12, Keyzer 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 May 31, 1927, for the grant of a certificate of conformity to the above-named insolvent.

By order of court, A. C. BELING,
Colombo, April 2, 1927. Acting Secretary.

In the District Court of Colombo.

No. 3,534. In the matter of the insolvency of John Lennox Clarke of 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 April 12, 1927, for proof of claim of Messrs. Rowlands Garage, Colombo.

By order of court, P. DE KRETZER,
Colombo, March 31, 1927. Secretary.

In the District Court of Colombo.

No. 3,688. In the matter of the insolvency of Mohamed Moosa of Main 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 April 12, 1927, for proof of claim of Messrs. Shaw, Wallace & Co., Colombo.

By order of court, P. DE KRETZER,
Colombo, March 31, 1927. Secretary.

In the District Court of Colombo.

No. 3,710. In the matter of the insolvency of Ravanna Mana Vellasamy of 23, Brassfounder street, Colombo.

WHEREAS the above-named Ravanna Mana Vellasamy has filed a declaration of insolvency, and a petition for the sequestration of his estate has also been filed by Narayanapillai Sinna Samy of 111, Sea street, Colombo, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said Ravanna Mana Vellasamy insolvent accordingly; and that two public sittings of the court, to wit, on May 31, 1927, and on June 14, 1927, 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, P. DE KRETZER,
Colombo, March 31, 1927. Secretary.

In the District Court of Kalutara.

No. 195. In the matter of the insolvency of C. L. M. Calidu of Atulugama.

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 14, 1927, for consideration of the grant of a certificate of conformity to the insolvent.

By order of court, R. MALALGODA,
Kalutara, March 31, 1927. Secretary.

In the District Court of Kalutara.

No. 207. In the matter of the insolvency of Karandakankanange George Silva of Panadure.

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 12, 1927, for consideration of the grant of a certificate of conformity to the insolvent.

By order of court, R. MALALGODA,
Kalutara, March 31, 1927. Secretary.

In the District Court of Kalutara.

No. 213. In the matter of the insolvency of Cassim Lebbe Marikar Mohamado Sally of Vennala in Beruwala.

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 April 29, 1927, for appointment of assignee and proof of claims.

By order of court, R. MALALGODA,
Kalutara, March 29, 1927. Secretary.

In the District Court of Kalutara.

No. 216. In the matter of the insolvency of Soona Theravia Nadar of Panadure.

WHEREAS Soona Theravia Nadar of Panadure has filed a declaration of insolvency, and a petition for the sequestration of the estate of Soona Theravia Nadar of Panadure, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said Soona Theravia Nadar of Panadure insolvent accordingly; and that two public sittings of the court, to wit, on April 28, 1927, and on May 25, 1927, 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, R. MALALGODA,
Kalutara, March 19, 1927. Secretary.

In the District Court of Kalutara.

No. 217. In the matter of the insolvency of V. Krishna Muttu Nadar.

WHEREAS V. Krishna Muttu Nadar has filed a declaration of insolvency, and a petition for the sequestration of the estate of V. Krishna Muttu Nadar, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said V. Krishna Muttu Nadar insolvent accordingly; and that two public sittings of the court, to wit, on April 28, 1927, and on May 25, 1927, 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, R. MALALGODA,
Kalutara, March 19, 1927. Secretary.

In the District Court of Kalutara.

No. 218. In the matter of the insolvency of Wijesekara Mahavidanelage Adrian Perera of Katukurunda.

WHEREAS Wijesekara Mahavidanelage Adrian Perera of Katukurunda has filed a declaration of insolvency, and Wajjakarakankanange Luwis Dias has filed a petition for the sequestration of the estate of Wijesekara Mahavidanelage Adrian Perera, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said Wijesekara Mahavidanelage Adrian Perera insolvent accordingly;

and that two public sittings of the court, to wit, on April 29, 1927, and on May 27, 1927, 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, R. MALALGODA,
Kalutara, March 29, 1927. Secretary.

In the District Court of Chilaw.

No. 28. In the matter of the insolvency of Habib Hadji Abbas of Nattandiya.

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 20, 1927, to declare a dividend.

By order of court, W. A. T. GUNAWARDANA,
Chilaw, April 2, 1927. Secretary.

NOTICES OF FISCALS' SALES.

Western Province.

In the District Court of Chilaw.

Wickrama Aratchige Don Romel Appuhamy of Wrehena Plaintiff.
No. 8,059. Vs.

Sembukutti Aratchige Don Elizabeth Goonesekera Hamine of Kandana, Colombo District Defendant.

NOTICE is hereby given that on Thursday, May 12, 1927, at 1 p.m., will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of the sum of Rs. 1,185, together with interest thereon at 15 per cent. per annum from August 21, 1926, till date of decree (November 30, 1926), and thereafter with legal interest on the aggregate amount till payment in full, and costs of suit, viz.:—

All that land called Strokwatta *alias* Mahatmayagewatta, with the cadjan-thatched house standing thereon, situated at Kandana in the Ragam pattu of Alutkuru korale in the District of Colombo, Western Province; bounded on the north by the road leading to Dawakandan ferry, east by the land belonging to N. Perera Wijayagunatilleke Karunaratna, south by lands belonging to Kerengodage Don Abilinu Appu and others, west by the land belonging to Sylvestrige Pabilis Silva and others; containing in extent about 2 acres and 2 roods.

Fiscal's Office,
Colombo, April 6, 1927.

R. O. DE SARAM,
Deputy Fiscal.

In the District Court of Colombo.

M. S. T. Narayanasamy Pillai of Bankshall street in Colombo Plaintiff.
No. 4,870. Vs.

P. Solomon Fernando of Beruwala in the District of Kalutara Defendant.

NOTICE is hereby given that on Monday, May 2, 1927, commencing at 2 o'clock in the afternoon, will be sold by public auction at the respective premises the right, title, and interest of the said defendant in

the following property for the recovery of Rs. 9,651.36, with interest thereon at 9 per cent. per annum from May 15, 1922, till payment in full, and costs of suit, less a sum of Rs. 4,092.58, viz.:—

1. Undivided $\frac{1}{2}$ share of the soil of the soil share trees and of the tiled house standing thereon of Achchigewelawatta, situated at Hunumulle in Beruwala in Beruwalbadda in the District of Kalutara; and bounded on the north by Aladinaowita, east by Katukurundugahawatta, south by Hunumullegedarawatta, and west by Mawatobodawatta; and containing in extent about 2 acres.

2. Undivided $\frac{1}{7}$ share of the soil and of the trees of the land called Uswatta, situated at the same village; and bounded on the north by the seashore, east and south by a portion of this land, and west by a portion of this land and Karawalagalamullewatta; and containing in extent about 1 acre.

3. $\frac{3}{5}$ shares of the soil and of the tiled boutique and of all things thereon of a portion of Wellabodawatta, situated at Alutkade junction in Beruwala in Beruwalbadda; and bounded on the north by the boutique room belonging to Manimel Vass, east by the high road, south by the boutique room belonging to Andrew Silva, and west by seashore; and containing in extent about 10 perches.

4. Undivided $\frac{6}{35}$ shares of the soil and of the remaining trees, after excluding the planter's $\frac{1}{4}$ share, of the 2nd plantation of the land called Katukurundugahawatta, situated at the same village; and bounded on the north by field, east by Katukurundugahawatta belonging to Reyinis Fernando, south by Bogahawatta, and west by Hunumullewatta; and containing in extent about 6 acres.

5. The entire soil and all things thereon of the land called Puwakgahaowitideka, situated at Kiulewela in Beruwala in Beruwalbadda in the District of Kalutara; and bounded on the north by Radaunnewagura, east by Mullagahaweledigana, south by Alakanduowitideka, and west by Totaowita; and containing in extent 1 acre 2 roods and 17 perches.

At 4 p.m.

6. Undivided $\frac{2}{3}$ share of the soil and of all things of Duweowita, situated at Pinhena in Alutgambadda in the District of Kalutara; and bounded on the north

by Waragahaowita, east by Ilukowita, Medaowita, and Nariyawatta, south by Gangabodadeniya, and west by river; and containing in extent about 20 acres 3 roods and 4 70/100 perches.

Deputy Fiscal's Office, H. SAMERESINGHA,
Kalutara, April 5, 1927. Deputy Fiscal.

In the District Court of Colombo.

Sellapperumage Hendrick Fernando of Henemulla
in Panadure Substituted Plaintiff.

Nos. 20,680/8,958. Vs.

Andravaspatabendige Cecily Maria Goonewardena,
administratrix of the estate of the late Tan-
tulage Peter Charles Fernando Wanigasekera
Goonewardene, deceased, of Panadure....Defendant.

NOTICE is hereby given that on Saturday, April 30, 1927, at 4 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of Rs. 812.75, with further interest on Rs. 600 at 18 per cent. per annum from July 30, 1926, till February 11, 1927, and thereafter interest on the aggregate amount of the decree at 9 per cent. per annum till payment in full, and costs of suit Rs. 340.03, to be recovered under writ No. 20,680, D. C., Colombo, and for the recovery of Rs. 416.31, together with interest thereon at 9 per cent. per annum from June 25, 1923, till payment in full, and costs of suit Rs. 209, to be recovered under writ No. 8,958, D. C., Colombo, viz.:—

Undivided 18/64 shares of the soil and of all the trees and 6/16 shares of the tiled house standing thereon of the northern portion (after excluding the defined southern $\frac{1}{2}$ portion purchased and possessed by Guruge Joronis Fernando) of a portion of Delgahawatta, situated at Walana in Panadure badda of Panadure totamune in the District of Kalutara; and bounded on the north by the ditch separating a portion of this Delgahawatta, east by the ditch of Gorakagahawatta, south by the land belonging to Dewage Don Arnolis Appuhamy *alias* cart road, and west by Government high road; and containing in extent about 1 acre and 2 roods.

Deputy Fiscal's Office, H. SAMERESINGHA,
Kalutara, April 5, 1927. Deputy Fiscal.

Central Province.

In the District Court of Kandy.

S. R. M. R. M. Ramasamy Chetty of Brown-
rigg street, Kandy Plaintiff.

No. 33,479. Vs.

(1) T. K. Sathan Kanakapulle of Kubnelle estate,
Rangala, (2) S. A. M. R. M. Annamalaie Chetty
of Colombo street, Kandy Defendants.

NOTICE is hereby given that on Saturday, May 14, 1927, commencing at 12 noon, will be sold by public auction at the respective premises the right, title, and interest of the said 2nd defendant in the following property for the recovery of the sum of Rs. 918.53, together with interest on Rs. 792.75 at the rate of 9 per cent. per annum from December 1, 1925, till payment in full, and poundage (subject to the payment of the amounts due under decree in case

No. 33,989 of the District Court of Kandy, and the primary mortgage in favour of the plaintiff created by bond No. 18,609 dated March 7, 1924, and attested by J. W. Wickremasinghe, Notary Public, of Kandy), viz.:—

(1) All that allotment of land called Gomadiya-pokuna, containing in extent 21 acres 2 roods and 33 perches according to Crown title plan No. 270,700, authenticated by R. S. Templeton, Esq., Surveyor-General, situate at Bambaragama in the Gannewa korale of the Uda Hewaheta division of the District of Nuwara Eliya in the Central Province; and bounded on the north by Crown land, on the east by Crown land, lot No. 16,165 in preliminary plan No. 5,933, and title plan No. 62,598, on the south by land in title plan No. 62,598, and on the west by reservation along the road and footpath; with everything thereon; registered in R 12/133. Which said land is otherwise described in plan dated September 7, 1923, and made by C. D. Jayasinghe of Kandy, Licensed Surveyor, as all that allotment of land, in extent 21 acres 2 roods and 33 perches, situate at Bambaragama aforesaid; and bounded on the north by Crown land, on the south and east by reservation, and on the west by reservation and road from Kandy to Rahatungoda.

(2) All that allotment of land called Nayakaduwa, containing in extent 31 acres 2 roods and 24 perches according to the survey and description thereof made by the said C. D. Jayasinghe, Licensed Surveyor, situate at Bambaragama aforesaid; and bounded on the north, east, and west by reservation, and on the south by reservation and land claimed by Mr. Brisco; together with everything thereon standing; registered in R 12/134.

Fiscal's Office, A. RANESINGHE,
Kandy, April 5, 1927. Additional Deputy Fiscal.

In the District Court of Kandy.

M. S. Dawood of Ward street, Kandy.....Plaintiff.
No. 34,719. Vs.

(1) S. B. Yatawara of Ampitiya, and (2) T. B.
Yatawara of Gampola Defendants.

NOTICE is hereby given that on Saturday, May 7, 1927, commencing at 12 noon, will be sold by public auction at the respective premises the right, title, and interest of the said defendants in the following property for the recovery of the sum of Rs. 1,669.37 $\frac{1}{2}$, with legal interest at 9 per cent. per annum from December 23, 1926, till payment in full, and poundage, viz.:—

(1) All that land called Pujagodawatta of 2 acres in extent, situate at Angammana in Kandukara Ihala korale of Uda palata in the District of Kandy, Central Province; and bounded on the east by ditch of garden belonging to Udahawalawwe, on the south by Heenihulaha, on the west by remaining portion, and on the north by field.

(2) All that land called Boraluwemankadehena of about 2 acres in extent, situate at Mahara in Kandukara Ihala korale aforesaid; and bounded on the east by high road to Nuwara Eliya, on the south by limit of Ryan's tea estate, on the west by above Ungagehena, and on the north by field.

(3) All that land called Viyannahitiyawatta of 3 pelas paddy sowing extent, situate at Angammana aforesaid; and bounded on the east by above Watuwalakumbura, on the south by ditch of Pallege Arachchilawatta, on the west by high road, and on the north by water-course of Watumalakumbura.

(4) All that field called Niyakumbura of 2 pelas paddy sowing extent, situate at Kobbewala in Kandukara Ihala korale aforesaid; and bounded on the east by oya, on the south by Asweddumakumbura, on the west by Pita-ela, and on the north by liminary dam of Kalawitepela.

Fiscal's Office, Kandy, April 1, 1927. A. RANESINGHE, Additional Deputy Fiscal.

In the District Court of Kandy.

M. R. P. L. M. I. T. Raman Chetty of Kandy Plaintiff.
No. 34,900. Vs. 39/20/1-

A. M. M. Samy of Talapinnawa estate, Ampitiya, in Kandy Defendant.

NOTICE is hereby given that on Friday, May 6, 1927, at 12 noon, will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of the sum of Rs. 3,859.04, with interest on Rs. 3,725 at 9 per cent. per annum from February 22, 1927, till payment in full, and poundage, viz. :—

All that allotment of land called Talapinnawawatta, situated at Ampitiya in Gandahe korale of Lower Hewaheta in the District of Kandy, Central Province, and containing in extent 21 acres and 3 roods according to Mr. O. V. Bartholomuesz's plan of survey dated November 18, 1907; and bounded according to the said plan on the east by the property of Kariwana Kangany, on the south by the property of Moona Nathar Saibo, and on the west and north by the garden said to belong to Muna Muttu Kannu; which said allotment of land is also claimed as containing in extent 21 acres 1 rood and 2 perches; and bounded on the east by the property of Selamberam Kangany and Bossen Kangany, formerly the property of Ana Kena Lena, on the south by the property belonging to Moona Kadersa, formerly the property of Moona Nather Saibo, on the west and north by the property belonging to Moona Kadersa and by the limit of the property belonging to Moona Muttu Kanu, the wife of Muna Muttiah Pulle; together with the buildings standing thereon, subject to the mortgage bond No. 14,706 dated December 15, 1921, and attested by Mr. J. W. Wickremesinghe of Kandy, Notary Public.

Fiscal's Office, Kandy, April 1, 1927. A. RANESINGHE, Additional Deputy Fiscal.

In the District Court of Kandy.

J. X. Paiva of Matale Plaintiff.
No. 33,763. Vs. 23/20/1-

R. Vanstarrek of Crystal Hill, Matale Defendant.

NOTICE is hereby given that on Wednesday, May 4, 1927, commencing at 12 noon, will be sold by public auction at the defendant's house at 663, situate at Trincomalee street, Matale, in the following movable property of the defendant for the recovery of the sum of Rs. 636.45, with legal interest on Rs. 545 from March 1, 1926, till payment in full, viz. :—

1 Ford car bearing No. B428.
5½ bags dried cocoa seeds.
1 writing desk.
1 weighing machine.
3 wooden chairs.
2 wooden tables.

1 copying press.
1 motor cycle and side car bearing No. F250.
1 bicycle bearing No. 30753.
280 bags of tea fluff.

Deputy Fiscal's Office, Matale, April 5, 1927. N. W. MORGAPPAH, Jr., Additional Deputy Fiscal.

Southern Province. 20/20/1-

In the District Court of Matara.

L. N. de Silva of Matara Plaintiff.
No. 2,419. Vs.

H. W. Don Siyadoris of Kamburupitiya... Defendant.

NOTICE is hereby given that on Saturday, May 14, 1927, at 3.30 P.M., will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of Rs. 1,567.53 :—

An undivided ¼ part of the land called Kanuketiwalawatta alias Diwelwatta, together with the tiled house of 9 cubits and the thatched house of 5 cubits standing thereon, situated at Ullala in the Gangaboda pattu of the Matara District, Southern Province; and bounded on the north by Kanuketiya, east by Madawalamullala, south by Kajugahawatta, and on the west by Potuwila; and containing in extent about 6 acres.

Deputy Fiscal's Office, Matara, April 1, 1927. E. T. GOONEWARDENE, Deputy Fiscal.

North-Western Province. 31/20/1-

In the District Court of Kurunegala.

Herat Mudiyansele Kiri Banda of Udadi-gane Plaintiff.
No. 11,364. Vs.

Hadji Lebbelage Habibu Lebbe of Torayaya in Mahagalboda Megoda korale Defendant.

NOTICE is hereby given that on Friday, May 13, 1927, at 1 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said defendant in the following mortgage property decreed to be sold under the above writ, viz. :—

One undivided fourth share of Webodekumbura now garden of 12 lahas of paddy sowing in extent and its adjoining Bakmeegahamulahena now garden of 3 lahas of kurakkan sowing in extent and of the plantations and buildings standing thereon, situated at Torayaya in Mahagalboda Megoda korale south, in Weudawili hatpattu, in the District of Kurunegala, North-Western Province; and bounded on the east and north by endaru fence of the field of Kunji Udayare, ex-Arachchi, on the south by large ant hill and ketakala tree, and on the west by endaru fence on the ditch of the garden of Neina Lebbe.

Amount to be levied Rs. 499.25, together with interest on Rs. 250 at 25 cents per Rs. 10 per mensem from February 18, 1926, up to April 21, 1926, and thereafter on the aggregate amount at 9 per cent. per annum till payment in full.

Fiscal's Office, Kurunegala, April 6, 1927. S. D. SAMARASINHE, Deputy Fiscal.

B 7

In the District Court of Negombo.

R. R. M. A. Kandasamy Pulle of
Negombo Plaintiff.
No. 895. Vs.

Warnakula Weerasuriya John Fernando of Bola-
watta Defendant.

NOTICE is hereby given that on Thursday, May 12, 1927, at 9 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 for the recovery of Rs. 1,138.65, with interest on Rs. 1,500 at 15 per cent. per annum from April 8, 1926, till May 20, 1926, and thereafter at 9 per cent. per annum till payment, and poundage, viz. :—

(1) The 1/10 share of the field called Thimbrigahakumbura, situate at Hattiniya in Yatakalana pattu of Pitigal korale south in the District of Chilaw; which 1/10 share is bounded on the north by portion of this land of Cornelis Fernando and others, east by land of the heirs of Lodin Fernando, Registrar, south by portion of this land of Cornelis Fernando, and west by garden of K. D. Simon Appuhamy; containing in extent 10 parrahs of paddy sowing soil.

(2) The land comprised of several allotments of lands, with the buildings standing thereon, situate at Hattiniya aforesaid; and bounded on the north by land of Jagarias Annavirala and others, east by field claimed by the villagers, south by devata road and land of Mohaiyadeen Meerasaibo, and west by Chilaw-Negombo road; containing in extent about 10 acres.

At 10.30 A.M. on the same day.

(3) The field called Paragahakumbura, situate at Narawila in Meda palata in Pitigal korale south aforesaid; and bounded on the north by Paragahakumbura of Sinno Appuhamy and the field called Thavanakumbura of Samel Vedarala, east by field of Samel Vedarala, and another, south by field of the same person and Wilakumbura of Dingirala, and west by field described in plan No. 168,552; containing in extent 1 acre 2 roods and 31 perches.

(4) The land called Dangahadalupota (exclusive of an undivided portion in extent $\frac{1}{2}$ acre towards the south of the high road), situate at Narawila aforesaid; and bounded on the north by Badullagahakumbura claimed by Sinnappu Gamarala and Dangahakumbura claimed by Seturala; east by lands described in plans Nos. 168,554, 168,530, and 168,547, south by lands appearing in plans Nos. 168,533 and 168,550, and west by land appearing in plan No. 168,596 and land claimed by Sinnappuhamy; containing in extent about 8 acres.

Deputy Fiscal's Office,
Chilaw, April 5, 1927.

A. BASNAYAKE,
Deputy Fiscal.

In the District Court of Negombo.

S. P. N. Suppramanian Chetty by his attorney
Kona Muna Ponniah Pulle of Negombo Plaintiff.
No. 1,433. Vs.

(1) Ilamgarapedige Peiyah and another of Kos-
wadiya Defendants.

NOTICE is hereby given that on Friday, May 13, 1927, at 2 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said defendants in the following property for the recovery of Rs. 708.93, with interest on Rs. 600 at 18 per cent. per annum from January 27, 1927, till February 2, 1927, and thereafter at 9 per cent. per annum till payment, and poundage, viz. :—

The land called Chlowita, with the buildings and plantations standing thereon, situate at Marahenagara in Koswadiya in Yatakalana pattu of Pitigal korale south in the District of Chilaw; and bounded on the north by dewata road, east by land of the heirs of Balaya Veda, south by land of Sadakkutulla Marikkar, and west by land of the heirs of Kiriya; containing in extent about 2 $\frac{1}{2}$ acres.

Deputy Fiscal's Office,
Chilaw, April 5, 1927.

A. BASNAYAKE,
Deputy Fiscal.

Province of Sabaragamuwa.

In the District Court of Colombo.

A. L. A. S. M. Alagappa Chetty of Sea street,
Colombo Plaintiff.
No. 22,898. Vs.

A. M. S. Marikkar of Kiriella in Ratna-
pura Defendant.

NOTICE is hereby given that on Friday, April 29, 1927, at 9 A.M., will be sold by public auction at the boutique of the defendant at Kiriella the right, title, and interest of the said defendant in the following property for the recovery of the sum of Rs. 1,578.75, with interest thereon at 9 per cent. per annum from March 5, 1927, till payment in full, and costs, and poundage :—

Four bags dhall.

Five bags sugar.

One bag samba.

Two bags nassian.

Fifteen bags milchard.

Nine bags raw rice.

Fifteen bags milchard.

Nine bags kalunda.

Sixteen bags inferior kara

Forty-six pieces long cloth

Four pieces long cloth.

In defendant's boutique at Kiriella.

Fiscal's Office,
Ratnapura, April 1, 1927.

R. E. D. ABEYRATNE,
Additional Deputy Fiscal.

NOTICES IN TESTAMENTARY ACTIONS.

In the District Court of Colombo.

Order Nisi declaring Will proved.

Testamentary In the Matter of the Last Will and
Jurisdiction. Testament of Reginald Fenwick of
No. 3,293. Middleton Saint George, in the
County of Durham, England, retired
planter, deceased.

THIS matter coming on for disposal before A. L. J. Croos-Dabrera, Esq., District Judge of Colombo, on March 31, 1927, in the presence of Messrs. F. J. & G. de Saram, Proctors, on the part of the petitioner, Morton Ledger Hopkins of Colombo; and (1) the affidavit of the said petitioner dated February 19, 1927, (2) the power of attorney dated February 22, 1927, and (3) the order of the Supreme Court dated January 8,

1927, having been read: It is ordered that the will of the said Reginald Fenwick, deceased, dated January 23, 1926, a duly certified copy of which under the Seal of His Majesty's High Court of Justice in England 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 said Morton Ledger Hopkins is the attorney in Ceylon of the executors named in the said will, and that he is entitled to have letters of administration (with will annexed) issued to him accordingly, unless any person or persons interested shall, on or before April 14, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 31, 1927.

A. L. J. CROOS-DABRERA,
District Judge.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Last Will and Jurisdiction. Testament of Esufbhoy Kadibhoy No. 3,297. late of Jetpur, Kathiarwar State, in India, deceased.

Ebrahim Esufbhoy of 17, Fourth Cross street, Pettah, Colombo..... Petitioner.

And
(1) Akbarally Esufbhoy of 17, Fourth Cross street, Pettah, Colombo, and presently of Jetpur, Kathiarwar State, in India, (2) Haiderally Esufbhoy, (3) Najumuddin Esufbhoy, (4) Hussenbhai Esufbhoy, (5) Safiabhai Esufbhoy, (6) Dialbhai Esufbhoy, all of Jetpur, Kathiarwar State, in India..... Respondents.

THIS matter coming on for disposal before A. L. J. Croos-Dabrera, Esq., District Judge of Colombo, on March 31, 1927, in the presence of Messrs. de Vos & Gratiaen, Proctors, on the part of the petitioner above named; and the affidavit of the said petitioner dated March 30, 1927, and the order of the Supreme court dated March 28, 1927, having been read:

It is ordered that the last will of Esufbhoy Kadibhoy, 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 petitioner, as son of the above-named deceased, is entitled to have letters of administration (with copy of the said will annexed) to his estate issued to him, unless the respondents above named or any other person or persons interested shall, on or before April 14, 1927, show sufficient cause to the satisfaction of this court to the contrary.

A. L. J. CROOS-DABRERA,
District Judge.

March 31, 1927.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Intestate Estate Jurisdiction. of Annie Elizabeth Cohan of Wynnstay, Aigburth Drive, in the City of Liverpool, deceased.

THIS matter coming on for disposal before A. L. J. Croos-Dabrera, Esq., District Judge of Colombo, on April 1, 1927, in the presence of Mr. Cecil Herbert Spence Blatch of Colombo, Proctor, on the part of the petitioner, Mr. Oscar Percy Mount of Colombo; and the affidavit of the said petitioner dated March 28, 1927, true copy of letters of administration to the intestate estate of the above-named deceased, power of attorney in favour of the petitioner, and Supreme Court's order dated March 18, 1927, having been read: It is declared that the said petitioner is the attorney of the English administrator, and that he is entitled to have letters of administration to the intestate estate of the above-named deceased issued to him accordingly, unless any person or persons interested shall, on or before April 14, 1927, show sufficient cause to the satisfaction of this court to the contrary.

A. L. J. CROOS-DABRERA,
District Judge.

April 1, 1927.

In the District Court of Colombo.

Order Nisi declaring Will proved.

Testamentary In the Matter of the Last Will and Jurisdiction. Testament of Isabel Douglas Henderson, the wife of James Alexander Henderson, at one time of Colombo in the Island of Ceylon, and late of "The Dippers," Kemsing, Sevenoaks, in the County of Kent, in the United Kingdom called England, deceased.

THIS matter coming on for disposal before A. L. J. Croos-Dabrera, Esq., District Judge of Colombo, on April 1, 1927, in the presence of Messrs. F. J. & G. de Saram, Proctors, on the part of the petitioners, Herbert Joseph Hanscomb and George Kenneth Logan; and (1) the affidavit of the said petitioners dated March 30, 1927, (2) the affidavit of Beatrice Mary Woodger, one of the attesting witnesses, dated January 26, 1927, (3) the affidavit as to due execution according to English law of James McMurdy dated February 2, 1927, and (4) the order of the Supreme Court dated March 24, 1927, having been read: It is ordered that the will of the said Isabel Douglas Henderson, deceased, dated December 30, 1925, original of which 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 said Herbert Joseph Hanscomb and George Kenneth Logan are the executors named in the said will, and that they are entitled to have probate issued to them accordingly, unless any person or persons interested shall, on or before April 14, 1927, show sufficient cause to the satisfaction of this court to the contrary.

A. L. J. CROOS-DABRERA,
District Judge.

April 1, 1927.

In the District Court of Negombo.

Order Nisi.

Testamentary In the Matter of the Intestate Estate Jurisdiction. of the late Nicholan Joseph Fernando of Pallansena, deceased.

THIS matter coming on for disposal before S. C. Sansoni, Esq., Acting District Judge of Negombo, on March 25, 1927, in the presence of Mr. J. E. de Croos, Proctor, on the part of the petitioner, Barbara de Croos of Pallansena; and the affidavit of the said petitioner dated March 23, 1927, having been read: It is ordered that the 3rd respondent be and he is hereby appointed guardian *ad litem* over the minors, 1st and 2nd respondents, for the purpose of this testamentary action, unless sufficient cause be shown to the satisfaction of this court to the contrary on or before the date mentioned herein below.

It is further ordered that the said petitioner be and she is hereby declared entitled, as wife of the said deceased, to administer the estate of the deceased above named, and that letters of administration do issue to her accordingly, unless the respondents—(1) Mary Winifrida Fernando, (2) Alphonsu Ligori Fernando, and (3) Nicholan Policarp Fernando, all of Pallansena—or any other person or persons interested shall, on or before April 22, 1927, show sufficient cause to the satisfaction of this court to the contrary. And it is further ordered that the said 3rd respondent do produce the said minors before this court on April 22, 1927, at 9.30 A.M., in connection with this case.

S. C. SANSONI,
Acting District Judge.

March 25, 1927.

In the District Court of Kalutara.

Order Nisi declaring Will proved, &c.

Testamentary Jurisdiction. In the Matter of the Estate of the late Bridget Mary Magdalena Constantine *nee* Perera, deceased, of Kalutara. No. 1,969.

THIS matter coming on for disposal before N. M. Bharucha, Esq., District Judge of Kalutara, on March 15, 1927, in the presence of Messrs. Goonetilleke & Obeysekera, Proctors, on the part of the petitioner, Hapuaratchigey Don Clement of Kalutara; and the affidavit of the said petitioner dated January 19, 1927, having been read:

It is ordered that the said petitioner be and he is hereby declared entitled, as the eldest son of the above-named deceased, to have letters of administration to her estate issued to him, unless the respondents—(1) Hapuaratchigey Don Aloysius of Kalutara, (2) ditto Felix Constantine of ditto, (3) ditto Leo Constantine of ditto, (4) ditto Dona Rita Wijegunawardena *nee* Constantine and husband (5) Stanley P. Wijegunawardena, both of Kalutara, (6) Hapuaratchigey Dona Lena Constantine of ditto, (7) ditto Dona Eugene Constantine of ditto—or any other person or persons interested shall, on or before April 26, 1927, show sufficient cause to satisfaction of this court to the contrary.

March 15, 1927.

N. M. BHARUCHA,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Intestate Estate of the late Mohideen's son Segu Mohamado, deceased, of Trincomalee street, Matale. No. 4,368.

THIS matter coming on for disposal before Vincent Michael Fernando, Esq., District Judge, Kandy, on January 10, 1927, in the presence of Messrs. Saravanamuttu & Balasingam, on the part of the petitioner, Segu Muhamado's son Cader Mohideen of Trincomalee street, Matale; and the affidavit of the said petitioner dated December 17, 1926, and the order of the Supreme court dated December 4, 1926, having been read:

It is ordered that the petitioner above named, as a son of the deceased, be and he is hereby declared entitled to have letters of administration to the estate of the deceased above named be issued to him accordingly, unless the respondents—(1) Segu Muhamado's son, Saval of Metuvilai Tinnevaly, India, (2) ditto Muttu Vappa of Matale, (3) ditto daughter, Meideen Meera Natchia of Metuvilai Tinnevaly, India, (4) ditto Rahuma Beebee of ditto, (5) Adam Sadatchy of ditto; the 4th respondent by her guardian the 2nd respondent—shall, on or before May 19, 1927, show sufficient cause to the satisfaction of this court to the contrary.

January 10, 1927.

V. M. FERNANDO,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Estate of the late Pahala Delgahagodagedera Nanda, deceased, of Batugoda. No. 4,469.

THIS matter coming on for disposal before Vincent Michael Fernando, Esq., District Judge, Kandy, on

February 14, 1927, in the presence of Messrs. Weerasooria & Wijesnaik, Proctors, on the part of the petitioner, Karuhawelli Rajapaksgedera Hapumalie of Batugoda; and the affidavit of the said petitioner dated December 11, 1926, having been read:

It is ordered that the said petitioner, as the widow of the deceased, be and she is hereby declared entitled to have letters of administration to the estate of the deceased above named issued to her, unless the respondents—(1) Pahala Delgahagodagedera Sawaneri, (2) Pahala Delgahagodagedera Kira Welliya, (3) Pahala Delgahagodagedera Passindu, (4) Pahala Delgahagodagedera Ukku, (5) Pahala Delgahagodagedera Silawathi, (6) Pahala Delgahagodagedera Baby, (7) Pahala Delgahagodagedera Somawathi, all of Batugoda—or any other person or persons interested shall, on or before March 17, 1927, show sufficient cause to the satisfaction of this court to the contrary.

It is further ordered that the said 1st respondent be appointed guardian *ad litem* over the 2nd, 3rd, 4th, 5th, 6th, and 7th respondents above named to represent them in these proceedings, unless any person or persons interested shall, on or before that day, show sufficient cause to the satisfaction of this court to the contrary.

V. M. FERNANDO,
District Judge.

February 14, 1927.

The date for showing cause is extended till April 11, 1927.

V. M. FERNANDO,
District Judge.

March 17, 1927.

In the District Court of Kandy.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Estate of the late Illandaripedigedera Menika, deceased, of Kannadeniya. No. 4,471.

THIS matter coming on for disposal before Vincent Michael Fernando, Esq., District Judge, Kandy, on February 9, 1927, in the presence of Messrs. Beven & Beven Proctors, on the part of the petitioner, Meragalpedigedera Esandee of Kannadeniya; and the affidavit of the said petitioner dated February 12, 1927, and her petition having been read: It is ordered that the petitioner, as the widow of the deceased, be and she is hereby declared entitled to have letters of administration to the estate of the deceased above named issued to her, unless—(1) Illandaripedigedera Siree, (2) Illandaripedigedera Muthuwa, (3) Illandaripedigedera Pincha, (4) Illandaripedigedera Samadara, (5) Illandaripedigedera Hapu, (6) Illandaripedigedera Wijesinghe, (7) Illandaripedigedera Karunaratne, and (8) Meragalpedigedera Rajapaksayaya, all of Kannadeniya—shall, on or before March 24, 1927, show sufficient cause to the satisfaction of this court to the contrary.

It is further ordered that the said Meragalpedigedera Rajapaksayaya, the 8th respondent, be appointed guardian *ad litem* of the 3rd, 4th, 5th, 6th, and 7th respondents to represent them in these proceedings, unless any person or persons shall, on or before the

said date show sufficient cause to the satisfaction of this court to the contrary.

February 18, 1927.

V. M. FERNANDO,
District Judge.

The date for showing cause is extended for May 5, 1927.

V. M. FERNANDO,
District Judge.

In the District Court of Kandy.

Order Nisi declaring Will proved, &c.

Testamentary In the Matter of the Last Will and Jurisdiction. Testament of the late Ganhate No. 4,479. Wiannelagedera Baba of Bowatura in Udapalata, deceased.

Ganhate Wiannelagedera Ungu of Bowatura Petitioner.

THIS matter coming on for disposal before Vincent Michael Fernando, Esq., District Judge, Kandy, on March 15, 1927, in the presence of Mr. M. A. Vanderwall, Proctor, on the part of the petitioner, Ganhate Wiannelagedera Ungu; and the affidavit of the said petitioner dated March 15, 1927, her petition, the last will, and the affidavit dated March 4, 1927, of one of the witnesses to the last will having been read:

It is ordered that the will of the above-named deceased dated January 18, 1927, which is now deposited in this court, be and the same is hereby declared proved.

It is further ordered that the petitioner above named is entitled to letters of administration to the estate of the deceased above named, with a copy of the will annexed, unless the respondents—(1) Pinchalagedera Lapee of Ganhata, (2) Warasambodhi Hamuduruwo of Weekulawatta in Gampola, (3) Manappuruwegedera Pinchi Ukku, and (4) Manappuruwegedera Simon, both of Petigammana—shall, on or before April 11, 1927, show sufficient cause to the satisfaction of the court to the contrary.

It is further ordered that the 3rd respondent be appointed the guardian *ad litem* for the 4th respondent above named to represent him in these proceedings, unless any person or persons interested shall, on or before the said date, show sufficient cause to the satisfaction of this court to the contrary.

March 15, 1927.

V. M. FERNANDO,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary In the Matter of the Estate of the late James Alexander Anderson, deceased, late of Balna Jowan, Aboyne, Aberdeeni, Scotland.

THIS matter coming on for disposal before Vincent Michael Fernando, Esq., District Judge, Kandy, on March 26, 1927, in the presence of Messrs. H. W. Jonklaas & Co., Proctors, on the part of the petitioner, Isie Christine Anderson of Goswatte, Kandy; and the affidavit of the said petitioner dated March 26, 1927, the probate issued to the petitioner under the seal of Office of the Commissariat of the county of Edinburgh dated November 27, 1926, and the order of the Supreme Court of Ceylon dated March 1, 1927, having been read:

It is ordered that the petitioner, as the executrix of the estate of the deceased, be and she is hereby declared entitled to have letters of administration to the estate of the deceased issued to her, with copy of will annexed, unless any person or persons interested shall, on or before May 9, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 26, 1927.

V. M. FERNANDO,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary In the Matter of the Estate of the late Sophia Clara Wendt, deceased, No. 4,485. of Kandy.

THIS matter coming on for disposal before Vincent Michael Fernando, Esq., District Judge, Kandy, on March 28, 1927, in the presence of Messrs. Jonklaas & Wambek, Proctors, on the part of the petitioner, Celia Clara Wendt of Kandy; and the affidavit of the said petitioner dated March 23, 1927, and her petition having been read:

It is ordered that the petitioner, as sister of the deceased, be and she is hereby declared entitled to have letters of administration to the estate of the deceased above named issued to her, unless the respondents—(1) Eleanor Augusta Meerwald and her husband (2) Walter P. Meerwald, both of Mahawatta in Mytwal, Colombo, (3) Henry William Wendt of His Majesty's Customs, Colombo, (4) Victor Augustus Wendt of the Surveyor-General's Office, Colombo, (5) Albert Wilfred Wendt of Siam, appearing by his attorney the 3rd respondent, (6) Elsie Gertrude Whatmore and her husband (7) Alfred Whatmore, both of Trincomalee street, Kandy—shall, on or before May 12, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 28, 1927.

V. M. FERNANDO,
District Judge.

In the District Court of Galle.

Order Nisi.

Testamentary In the Matter of the Estate of the late Robosingho Blok, deceased, of No. 6,403. Wattehena in Bentota-Wallawiti korale.

THIS matter coming on for disposal before A. P. Boone, Esq., District Judge of Galle, on February 28, 1927, in the presence of Mr. T. G. Dawardena, Proctor, on the part of the petitioner, Omis Blok of Gonalgoda in the Gangaboda pattu; and the affidavit of the said petitioner dated February 25, 1927, having been read:

It is declared that the said petitioner, as father of the deceased above named, is entitled to have letters of administration issued to him accordingly, unless the respondent, Nagoda Vitanage Elisohamy of Gonalgoda, shall, on or before May 9, 1927, show sufficient cause to the satisfaction of this court to the contrary.

February 28, 1927.

A. P. BOONE,
District Judge.

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Estate and
Jurisdiction. Effects of Thaiyalmuttu, widow of
No. 6,382. Muttukkumar, late of Nallur,
deceased.

Vyramuttu Muttukkumar of Nallur.....Petitioner.

Vs.

(1) Sivaramalingam Muttukkumar of Mailiddi
South, (2) Kathiravelu Muttukkumar of Lon-
don, (3) Saravanamuttu Muttukkumar of
Kuala Lumpur, (4) Wybiliam Ponnudurai of
Kuala Lumpur, and his wife, (5) Vijaya
Sivakama Sunthar ofitto..... Respondents.

THIS matter of the petition of the petitioner,
praying for letters of administration to the estate of
the above-named deceased, coming on for disposal
before G. W. Woodhouse, Esq., District Judge, on
February 22, 1927, in the presence of Messrs. Casip-
pillai & Cathiravelu, the petitioner's Proctors; and the
petitioner's affidavit dated February 18, 1927, having
been read:

It is declared that the petitioner is one of the heirs
of the said deceased and is entitled to have letters of
administration to the estate of the said deceased issued
to him, unless the respondents shall, on April 12, 1927,
show cause to the satisfaction of this court to the
contrary.

March 9, 1927.

G. W. WOODHOUSE,
District Judge.

In the District Court of Jaffna.

Order Nisi.

Testamentary. In the Matter of the Estate of the
Jurisdiction. late Punnappillai Arumugam of
No. 6,388. Tellippalai West, deceased.

Sithamparam, widow of Punnappillai Arumugam
of Tellippalai West Petitioner.

Vs.

(1) Kathirippillai Sithamparam and wife, (2)
Theivanaippillai ofitto..... Respondents.

THIS matter of the petition of Sithamparam,
widow of Punnappillai Arumugam, the petitioner,
praying for letters of administration to the estate of
the above-named deceased, Punnappillai Arumugam,
coming on for disposal before G. W. Woodhouse,
Esq., District Judge, on March 1, 1927, in the pre-
sence of Mr. V. Coomaraswamy, Proctor, on the part
of the petitioner; and the affidavit of the petitioner
dated February 28, 1927, having been read:

It is declared that the petitioner is the widow of the
said intestate and is entitled to have letters of ad-
ministration to the estate of the said intestate issued
to her, unless the respondents or any other person
shall, on or before April 12, 1927, show sufficient
cause to the satisfaction of this court to the contrary.

March 16, 1927.

G. W. WOODHOUSE,
District Judge.

In the District Court of Mannar.

Order Nisi.

Testamentary In the Matter of the Estate of Aha-
Jurisdiction. madoneina Muttumarakaer, late of
No. 372. Mannar, deceased.

Sulaihaumma, widow of Muttumarakaer of
Moor's street, Mannar.....Petitioner.

Vs.

(1) Mohamado Meeraumma, widow of Abdul
Aseer, (2) Muttumarakaer Noorumohamado,
(3) Muttumarakaer Sahul Hameedu, all of
Moor's street, Mannar..... Respondents.

THIS matter of the petition of Sulaihaumma,
widow of Muttumarakaer of Moor's street, Mannar,
praying for letters of administration to the estate of
the above-named deceased, Ahamadoneina Muttu-
marakaer, coming on for disposal before C. E. Jones,
Esq., District Judge, Mannar, on March 25, 1927, in
the presence of Mr. S. Mudr. Anantham, Proctor, on
the part of the petitioner; and the affidavit of the
petitioner dated March 25, 1927, having been read:
It is declared that the petitioner is the widow of the
said intestate, and is entitled to have letters of
administration to the estate of the said intestate
issued to her, unless the respondents or any other
person shall, on or before April 20, 1927, show suffi-
cient cause to the satisfaction of this court to the
contrary.

It is further declared that the 1st respondent be
appointed guardian *ad litem* of the 2nd and 3rd re-
spondents for the purpose of representing them in
these proceedings, unless the respondents above
named shall, on or before the said date, show suffi-
cient cause to the satisfaction of this court to the
contrary.

March 25, 1927.

C. E. JONES,
District Judge.

In the District Court of Batticaloa.

Order Nisi declaring Will proved.

Testamentary. In the Matter of the Last Will and
Jurisdiction. Testament of the late Sithrapody
No. 164. Tangamah, deceased, of Koddamunai
in Batticaloa.

Narayanapillai Ponnamah of Koddamunai...Petitioner.

Vs.

(1) Arunakari Rajayah of the Leper Asylum,
Mantiyoo, (2) Sinnatamby Samitamby (minor),
(3) Tamman Chellachy, both of Vandaramoolai,
(4) Candapper Muttiah, executor of the Last
Will of the late Nallatamby Naganather-
pillai..... Respondents.

THIS matter coming on for disposal before W. D.
Niles, Esq., District Judge of Batticaloa, on March
3, 1927, in the presence of Messrs. Thambyrajah &
Stephens, Proctors, on the part of the petitioner;
and the affidavit and petition of the petitioner dated
February 22, 1927, and January 27, 1927, respec-
tively; and the affidavits dated July 7, 1925, and
January 19, 1927, of the notary who attested the last
will and the witnesses who subscribed to the said
last will having been read:

It is ordered that the will of Sithrapody Tangamah,
widow of Naranapillai of Koddamunai, deceased, dated
April 22, 1924, and now deposited in this court, be
and the same is hereby declared proved, unless the
above respondents or any other person or persons
interested shall, on or before March 31, 1927, show
sufficient cause to the satisfaction of this court to the
contrary.

It is further declared that the said petitioner is a legatee and the surviving daughter of the deceased, and that she is entitled to have letters of administration, with the copy of the will annexed, issued to her accordingly, unless the respondents or any other person or persons interested shall, on or before March 31, 1927, show sufficient cause to the satisfaction of this court to the contrary.

It is also further ordered that the 3rd respondent be and she is hereby appointed guardian *ad litem* of the minor, the 2nd respondent, for the purpose of this case, unless the respondents or any other person or persons interested shall, on or before March 31, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 3, 1927.

W. D. NILES,
District Judge.

This *Order Nisi* has been extended and re-issued till April 14, 1927.

W. D. NILES,
District Judge.

In the District Court of Trincomalee

Order Nisi. 45/110/

Testamentary In the Matter of the Estate and Jurisdiction. Effects of Peter Abraham, late of No. 155. Division No. 2, Trincomalee, deceased.

Gnanam Abraham of Division No. 2, Trincomalee Petitioner.

(1) Joseph Abraham, (2) Benjamin Abraham, (3) Muttamma Gnanapragasam, (4) Peter Gnanapragasam of Division No. 2, Trincomalee, (5) Emily Margeret Annamma, (6) James Francis of Seramban in F. M. S., (7) Grace Abraham, and (8) Wilmer Abraham, (9) Francis Theresa Amirtham, (10) Mary Nallaretnam Abraham, minors, by their guardian *ad litem* the 11th defendant, (11) James Rajakariyar of Division No. 2, Trincomalee Respondents.

THIS matter coming on for disposal before George Crossette Thambyah, Esq., District Judge of Trincomalee, on March 1, 1927, in the presence of Mr. M. M. Subramaniam, Proctor, on the part of the petitioner above named; and the petitioner and the affidavit of the said petitioner dated February 28, 1927, having been read:

It is ordered that the petitioner, Gnanam Abraham, be and she is hereby declared entitled, as widow of the said deceased, to administer the said estate, and that letters of administration do issue to her accordingly, unless the respondents above named or any person or persons interested shall, on or before April 25, 1927, show sufficient cause to the satisfaction of this court to the contrary.

It is also ordered that the 11th respondent, James Rajakariyar, be and he is hereby appointed guardian *ad litem* over the minors, 8th, 9th, and 10th respondents, unless sufficient cause be shown to the contrary on April 25, 1927.

It is also ordered that the said 8th, 9th, and 10th minor respondents be produced before this court on April 25, 1927.

March 1, 1927.

G. C. THAMBYAH,
District Judge.

In the District Court of Chilaw. 28/2

Order Nisi.

Testamentary In the Matter of the Intestate Estate Jurisdiction. of Jayakodi Arachchige Don Carolis No. 1,751. Appuhamy, late of Dankotuwa, deceased.

Erauwalage Dona Agidahamy of Dankotuwa Petitioner.

And

(1) Jayakodi Arachchige Dona Marthinahamy and her husband (2) Jayakodi Arachchige Theodoris Appuhamy, both of Dankotuwa Respondents.

THIS matter coming on for disposal before O. L. de Kretser, Esq., District Judge of Chilaw, on March 18, 1927, in the presence of Messrs. Corea & Corea, Proctors, on the part of the petitioner above named; and the affidavit of the said petitioner dated August 25, 1926, having been read:

It is ordered that the said petitioner be and she is hereby declared entitled, as widow of the said deceased, to have letters of administration to his estate issued to her accordingly, unless the above-named respondents or any other person or persons interested shall, on or before April 12, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 18, 1927.

O. L. DE KRETSEK,
District Judge.

In the District Court of Chilaw. 39/2

Order Nisi.

Testamentary In the Matter of the Intestate Estate Jurisdiction. of the late, Mohamadu Mariam No. 1,770. Beebee of Nagapatanam, India, deceased.

Muna Kana Seyadu Saibo Marikar of Nagapatanam, India, by his attorney Sena Ina Mohamadu Thumby Marikar of Marikaragara Petitioner.

And

(1) Hamidu Pathumma Kanni, (2) Mohamadu Mustapha Marikar, (3) Mohamadu Abubakar Marikar, (4) Savul Hamidu Marikar, and (5) Pathumma Johara Beebee, all of Nagapatanam in India Respondents.

THIS matter coming on for disposal before O. L. de Kretser, Esq., District Judge of Chilaw, on March 8, 1927, in the presence of Messrs. Storer & Paulickpulle, Proctors, on the part of the petitioner above named; and the affidavit of the said petitioner's attorney dated March 4, 1927, having been read: It is ordered that the said petitioner be and he is hereby declared entitled, as the husband 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 respondents above named or any other person or persons interested shall, on or before April 8, 1927, show sufficient cause to the satisfaction of this court to the contrary.

It is further ordered that Davudu Natchia of Nagapatanam in India be appointed guardian *ad litem* over the respondents, minors, for the purpose of this action, unless the said respondents or any other person or persons interested shall, on or before April 8, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 8, 1927.

O. L. DE KRETSEK,
District Judge.

In the District Court of Chilaw.

Order Nisi.

Testamentary In the Matter of the Intestate Estate
Jurisdiction. of the late Mohamadu Seyadu
No. 1,771. Ahamadu Marikar of Nagapatanam
in India, deceased.

Lena Hamidu Sultan Marikar of Nagapatanam,
India, by his attorney Sena Ina Muna Moha-
mady Thamby Marikar of Marahenagara. Petitioner.

And

Dayadu Natchia of Nagapatanam in Tanjore
District, India Respondent.

THIS matter coming on for disposal before O. L. de Kretser, Esq., District Judge of Chilaw, on March 8, 1927, in the presence of Messrs. Storer & Paulickpulle, Proctors, on the part of the petitioner above named; and the affidavit of the said petitioner's attorney dated March 4, 1927, having been read: It is ordered that the said petitioner be and he is hereby declared entitled, as the father 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 above named or any other person or persons interested shall, on or before April 8, 1927, show sufficient cause to the satisfaction of this court to the contrary.

O. L. DE KRETSEK,
District Judge.

March 8, 1927.

In the District Court of Badulla.

Order Nisi.

Testamentary In the Matter of the Intestate Estate
Jurisdiction. of Gampaha Sunanda Isthawira, late
No. B 782. of Ellekumbura Pansala in Sorana-
totà korale of Vijaluwa, deceased.

Bulatwelwette Udaagedara Herat Madiyanselage
Kiri Banda of Galkotuwegama in Gampaha-
wewegama Petitioner.

THIS matter coming on for disposal before Hilary Rudolph Robert Blood, Esq., District Judge of Badulla, on February 16, 1927, in the presence of Mr. J. B. M. Bandaranayake, Proctor, on the part of the petitioner, and his affidavit and petition dated February 16, 1927, having been read:

It is ordered and decreed that the petitioner, as sole brother of the deceased, be and he is hereby declared entitled to have letters of administration to the estate of the said deceased issued to him, unless any person or persons interested in the case shall, on or before March 23, 1927, show sufficient cause to the satisfaction of this court to the contrary.

H. R. R. BLOOD,
District Judge.

February 16, 1927.

Time allowed to show cause is extended till April 20,
1927.

March 23, 1927.

H. R. R. BLOOD,
District Judge.

In the District Court of Badulla.

Order Nisi.

Testamentary In the Matter of the Intestate Estate
Jurisdiction. of Walimunidewage Martin Bastian
No. B/787. of Rickarton; Campbell place,
Maradana, deceased.

Walimunidewage Edwin Bastian of Rickarton,
Campbell place, Maradana, in Colombo... Petitioner.

And

(1) Walimunidewage Indumathi Catherine and (2)
Alutduradevage Simon Fernando Wijegoone-
ratne, both of Kynsey road, Colombo... Respondents.

THIS matter coming on for disposal before Hilary Rudolph Robert Blood, Esq., District Judge of Badulla, on March 30, 1927; and the affidavit of the above-named petitioner dated March 24, 1927, and his petition by his Proctor, A. S. Gunawardene, dated March 30, 1927, having been read:

It is ordered and decreed that the petitioner is the brother of the deceased, is entitled to have letters of administration to the estate issued to him.

It is further ordered that the 2nd respondent, the maternal grandfather of the 1st respondent, minor, be and he is hereby appointed guardian *ad litem* to the said 1st respondent, unless the respondents or person or persons interested in the case shall, on or before April 20, 1927, show sufficient cause to the contrary to the satisfaction of this court.

March 30, 1927.

H. R. R. BLOOD,
District Judge.

In the District Court of Ratnapura.

Order Nisi.

Testamentary In the Matter of the Estate of the
Jurisdiction. late Kolonda Marikar Ahamedo
No. 861. Lebbe of Rakwana, deceased.

THIS matter coming on for disposal before H. E. Jansz, Esq., District Judge, Ratnapura, on March 10, 1927, in the presence of Mr. W. Henry Boteju, Proctor, on the part of the petitioner, Ahamedo Lebbe Abdul Latiff of Rakwana; and the affidavit of the said petitioner dated March 8, 1927, having been read:

It is ordered that the 1st respondent, Ismail Marikar Naththarunna of Rakwana, be appointed guardian *ad litem* over the minor respondents—(8) Ahamedo Lebbe Mohamedo Sein, (9) Ahamedo Lebbe Mohamedo Sariff, (10) Ahamedo Lebbe Mohamedo Junaid, (11) Ahamedo Lebbe Mohamedo Haniffa, and (12) Ahamedo Lebbe Umma Sulaiha, all of Rakwana—for the purposes of these proceedings, unless the respondents above named or any other person interested shall, on or before May 4, 1927, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said Ahamedo Lebbe Abdul Latiff is the son of the deceased above named, and that he is entitled to have letters of administration to the estate of the said deceased issued to him accordingly, unless the above-named respondents and (2) Ahamedo Lebbe Kadija Umma, (3) S. M. Abdul Caffor, (4) A. L. Isan Beebi, (5) A. L. Ahamedo Ismail, (6) A. L. Hauwa Umma, and (7) K. Mohamedo Ismail of Rakwana, shall, on or before May 4, 1927, show sufficient cause to the satisfaction of this court to the contrary.

March 10, 1927.

H. E. JANSZ,
District Judge.

DRAFT ORDINANCE.*(Continued from page 299.)*

I 2/1926

MINUTE.

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

**An Ordinance to amend the Irrigation Ordinance,
No. 45 of 1917.**

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

1 This Ordinance may be cited as the Irrigation Ordinance, No. of 1927.

Short title.

2 Section 3 of the principal Ordinance is hereby amended by the substitution of the following for the definition of "Majority of proprietors," viz. :

Amendment of section 3 of the principal Ordinance.

"Majority of proprietors" means—

- (a) A majority consisting of two-thirds at least of the proprietors present at a meeting, such majority representing at least one-third of the acreage, the proprietors of which are present and constitute the meeting ; or
- (b) If such majority is not obtained, the proprietors present at the meeting who represent two-thirds of the acreage, the proprietors of which are present and constitute the meeting.

Provided that a meeting shall not be validly constituted unless there are present at least fifty proprietors or proprietors representing one-fifth of the acreage affected : And provided further that at any meeting of proprietors of which the owner, or any person representing the owner, of any land, together with any lessee, cultivator, or occupier of such land under the said owner, or any lessee of such land, together with any cultivator or occupier under such lessee, shall be present, the votes of persons claiming under the owner or the lessee, as the case may be, shall not be reckoned in computing the number of votes or the number of persons present.

3 Sub-section (1) of section 7 of the principal Ordinance is hereby amended so as to read as follows, viz. :

Amendment of section 7 (1) of the principal Ordinance.

7 (1) At every meeting called under section 5 every proprietor within the district or division for which the meeting has been called, who shall be present thereat, shall be entitled to vote.

4 Section 11 of the principal Ordinance is hereby amended as follows, viz. :

Amendment of section 11 of the principal Ordinance.

(a) By the substitution of the words "the proprietors representing one-fifth or more of the acreage of the district." for the words "a reasonable number of the proprietors" in lines 4 and 5 thereof ; and

(b) By the substitution of the words "remuneration, and duration of office" for the words "and remuneration" in paragraph (c) thereof.

5 Sub-section (1) of section 12 of the principal Ordinance is hereby amended by the substitution of the words "at a meeting which shall be summoned by the Government Agent for the purpose, either of his own motion or on the requisition of the proprietors representing one-fifth or more of the acreage of the district" for the words "at a meeting summoned by the Government Agent for the purpose."

Amendment of section 12 (1) of the principal Ordinance.

6 Section 21 of the principal Ordinance is hereby amended as follows, viz. :

Amendment of section 21 of the principal Ordinance.

(a) By the deletion in sub-section (1) of the words "and presided over by him or by any officer deputed by the Government Agent in that behalf," which were added by section 4 of Ordinance No. 22 of 1922.

(b) By the substitution of the words "misconduct or neglect of duty" for the words "misconduct in the execution of his office" in sub-section (4) thereof : and

- (c) By the substitution of the words "if in the opinion of the Government Agent, after consultation with the district advisory committee," for the words "if in the opinion of the Government Agent and the district advisory committee" in sub-section (6) thereof.
- Amendment of section 50 (1) of the principal Ordinance.
- 7 Sub-section (1) of section 50 of the principal Ordinance is hereby amended by the insertion of the words "or variable" after the word "fixed" in paragraph (a) thereof.
- Amendment of section 58 (5) of the principal Ordinance.
- 8 Sub-section (5) of section 58 of the principal Ordinance is hereby amended so as to read as follows, viz. :
- (5) For the purpose of nominating an arbitrator on behalf of the proprietors or any section of the proprietors, the Government Agent shall summon a meeting of the proprietors concerned.
- Amendment of section 59 (2) of the principal Ordinance.
- 9 Sub-section (2) of section 59 of the principal Ordinance is hereby amended so as to read as follows, viz. :
- (2) Nothing in this chapter, or in any scheme or resolution sanctioned or passed in pursuance of this or any previous Irrigation Ordinance, shall preclude the Crown on the occasion of the sale or lease of any Crown lands then or subsequently to become irrigable by any irrigation work, either actually constructed or under process of construction, or thereafter to be constructed, from imposing in the grant or lease or reserving the right to impose an irrigation rate of such amount and variable in such manner as to the Governor may seem fit.
- Addition of new section to principal Ordinance.
- 10 The following section shall be inserted in the principal Ordinance as section 64A, viz. :
- 64A (1) A register shall be kept at the Kachcheri of every revenue district in which irrigation works are situated of all the proprietors or mortgagees of lands under such irrigation works who may desire to have their names inserted therein.
- (2) A proprietor or mortgagee shall be entitled to have his name and address entered in the register on payment of an annual fee of one rupee.
- Amendment of section 65 of the principal Ordinance.
- 11 Section 65 of the principal Ordinance is hereby amended in the following respects, viz. :
- (1) The following sub-sections shall be inserted immediately after the first paragraph of sub-section (2), as sub-sections (3) and (4), viz. :
- (3) Where land is seized under this section the Government Agent shall forthwith, after the seizure, cause a notice setting out the facts of the seizure, the reasons therefor, and the date fixed for the sale of the land to be affixed to a conspicuous part of the land.
- (4) Where a proprietor or mortgagee of land seized under this section has registered his address in the register provided by section 64A, the Government Agent shall cause a notice setting out the fact of the seizure, the reasons therefor, a specification of the property seized, and the date of the sale to be sent by registered post to the proprietor and mortgagee at the address specified in the register at least fourteen days before the date fixed for the sale.
- (2) The first proviso to sub-section (2) shall be numbered (5), and this proviso together with the second and third provisos to sub-section (2) shall form sub-section (5).
- (3) The present sub-sections (3) and (4) shall be numbered (6) and (7), respectively.
- Addition of new section to principal Ordinance.
- 12 The following section shall be inserted in Chapter IX. of the principal Ordinance as section 73A :
- 73A (1) When any meeting is to be held under sections 5, 11, 12, 41, 42, 43, 50, 51, 52, or 58 the Government Agent shall, one month at least before the day of holding the meeting, cause notice of the meeting to be given by beat of tom-tom and posting written notices in the vernacular language or languages of the district in suitable places within the irrigation district or area. Such written notices shall state the time and place of the meeting and its objects, and shall call upon the proprietors to attend in person at the meeting.

(2) When any meeting is to be held under any other provision of this Ordinance or under any rule made under this Ordinance, the Government Agent shall cause as long notice of the meeting to be given as he considers to be reasonable and practicable in the circumstances.

(3) If at any meeting held under the provisions of this Ordinance any question arises as to the right of any person to vote, the presiding officer may then and there decide the question, and his decision shall be entered in the minutes and shall be final.

(4) The Government Agent or a public officer deputed by him shall preside at every meeting held under the provisions of this Ordinance or any rules made thereunder. Full minutes shall be made of the proceedings at every such meeting and shall be signed by the presiding officer and shall be kept on record at the Kachcheri.

13 Sub-section (5) of section 7, and sections 6, 8, 13, and 73 of the principal Ordinance are hereby repealed. Repeals.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, March 23, 1927.

A. G. M. FLETCHER,
Colonial Secretary.

Statement of Objects and Reasons.

THIS Bill gives effect to the recommendations contained in the report of the Committee on the Irrigation Ordinance, No. 45 of 1917, published as Sessional Paper VIII. of 1924. It also effects other modifications of the principal Ordinance for the reasons hereinafter given.

2. The effect of section 2 is that for the future the majority to be obtained will be either two-thirds of the proprietors present representing one-third of the acreage, the proprietors of which are present, or, if such majority is not obtained, the proprietors present who represent two-thirds of the acreage, the proprietors of which are present. Under the law as it stands at present, the one-third or two-thirds of the acreage is calculated on the whole acreage affected by the resolution. In practice it has been found very difficult to induce a sufficient number to attend meetings. The dangers of a "snap" vote are avoided by providing that a meeting shall not be validly constituted unless there are present at least fifty proprietors or proprietors representing one-fifth of the acreage affected.

3. At present under section 11 of the principal Ordinance, a requisition of "a reasonable number" of the proprietors makes it incumbent on a Government Agent to summon a meeting for the purpose of framing rules. The words "reasonable number" have been thought unsatisfactory, and the words "the proprietors representing one-fifth or more of the acreage of the district" have been substituted therefor by section 4 (a).

4. Section 4 (b) enables proprietors to make a rule limiting the duration of office of headmen. At present a headman, when elected under section 20, continues in office indefinitely.

5. Section 12 of the principal Ordinance provides that the proprietors within the irrigable area of any irrigation work may, by resolution passed at a meeting, exercise certain powers. The principal Ordinance provides that such a meeting be summoned by the Government Agent. Section 5 of the Bill provides that a meeting shall be summoned by the Government Agent either of his own motion or on the requisition of the proprietors representing one-fifth or more of the acreage of the district.

6. Under section 21 (4) of the principal Ordinance provision is made for the dismissal of a headman for "misconduct in the execution of his office." Section 6 (b) of the Bill provides that a headman may be dismissed for misconduct generally and also for neglect of duty.

7. Under section 21 (6) of the principal Ordinance provision is made for a meeting of proprietors to be called to decide whether the services of an irrigation headman should be dispensed with, if the Government Agent and the Advisory Committee are of opinion that they are not required. The

Committee thought that the full responsibility for the opinion should be placed on the Government Agent, but that he should consult the Advisory Committee on the subject; and recommended that this sub-section should be amended accordingly. Section 6 (c) of the Bill gives effect to this recommendation.

8. By section 50 of the principal Ordinance provision is made for the levying of an annual maintenance rate except in certain expressly excepted cases. One of these cases is that in which a fixed rate per annum in perpetuity is leviable. The Director of Irrigation pointed out to the Committee that the policy now adopted is to impose variable perpetuity rates. The Committee saw no difference in principle between these two rates. They thought that lands subject to variable perpetuity rates should also be freed from the maintenance rate, and recommended that section 50 (1) (a) should be amended accordingly. Section 7 of the Bill gives effect to this recommendation.

9. Section 59 (2) of the principal Ordinance allows the Crown on the occasion of the sale or lease of any Crown lands irrigable by any irrigation work to impose in the grant or lease an irrigation rate of such amount and variable in accordance with such conditions as to the Governor may seem fit. These words have been construed to mean that the lands must be irrigable by some existing irrigation work; so that the Crown would be precluded from imposing an irrigation rate in the grant or lease where the work was in course of construction or only under consideration. The Committee recommended that this sub-section should be amended by inserting after the words "irrigation work" in lines 4 and 5 thereof the words "either actually constructed or under process of construction, or thereafter to be constructed." Section 9 of the Bill gives effect to the substance of this recommendation, though the wording has been altered.

10. Section 10 of the Bill provides that a register of proprietors and mortgagees be kept at the Kachcheri for the purposes set out in the next paragraph.

11. Section 11 amends section 65 of the principal Ordinance so as to provide that the Government Agent shall cause notices of seizure to be posted up on all lands seized for the non-payment of irrigation rates.

The amendment also provides that notices be sent, at least fourteen days before sale, to proprietors and mortgagees of lands seized who have registered their addresses at the Kachcheri.

12. A new section numbered 73A is added to the principal Ordinance by section 12 of the Bill. Section 73A (1), which applies only to meetings held under sections 5 (for the election of an advisory committee), 11 and 12 (for making rules), 41, 42, 43, 50, 51, and 52 (for imposing or varying rates), and section 58 (for referring a question to arbitration), requires that at least one month's notice of the meeting shall be given.

Section 73A (2), which applies to all other meetings under the Irrigation Ordinance or the rules thereunder, requires as long notice of the meeting to be given as the Government Agent considers to be reasonable and practicable in the circumstances. The reason for this distinction is that matters constantly arise (*e.g.*, as to cultivation) which require urgent decision.

Section 73A (3) empowers the presiding officer to decide any question which may arise as to the right of any person to vote at any meeting.

Section 73A (4) allows the Government Agent to appoint a deputy to preside at any meeting. At present the Government Agent can appoint a deputy for meetings under Chapter III. for making rules, but not for meetings held under section 7 for electing advisory committees or under Chapter VI. for imposing or varying rates.

13. Sections 3, 6 (a), 8, and 13 of the Bill effect consequential amendments and repeals.

Attorney-General's Chambers,
Colombo, February 15, 1927.

L. H. ELPHINSTONE,
Attorney-General.