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PART II.—LEGAL.

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DRAFT ORDINANCES.**MINUTE.**

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

L. D.—O 62/36

An Ordinance to provide for the establishment of a Debt Conciliation Board in Ceylon and for other matters connected with or incidental to such establishment.

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**An Ordinance to provide for the establishment of a
Debt Conciliation Board in Ceylon and for other
matters connected with or incidental to such
establishment.**

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

1 This Ordinance may be cited as the Debt Conciliation Ordinance, No. of 1937, and shall come into operation on such date as the Governor may appoint by Proclamation in the Gazette.

Short title and date of operation.

2 (1) For the purposes of this Ordinance there shall be established a Board to be called the Debt Conciliation Board of Ceylon which shall consist of a Chairman appointed by the Governor and such number of other members, not exceeding four and not being less than two, as the Governor may appoint.

Establishment and constitution of the Board.

(2) The Chairman and every other member of the Board shall hold office for a period of three years from the date of his appointment:

Provided that notwithstanding the term of any such appointment, the Chairman or any other member of the Board may at any time—

- (a) resign from his office; or
- (b) be removed from office by the Governor:

Provided, further, that any person who is appointed to the Board to fill any vacancy caused by the resignation or removal from office of any member of the Board shall hold office during a period equal to the unexpired portion of the term of office of the member in whose place he is appointed and no longer.

(3) Any member of the Board who is absent without reasonable cause from three consecutive meetings of the Board may, by resolution of the Board passed at a meeting of which due notice has been given in the prescribed manner, be held to have vacated his office; and upon the passing of any such resolution, the member affected by that resolution shall cease to be a member of the Board.

(4) Any person ceasing to be a member of the Board shall be eligible for re-appointment thereto.

3 (1) The Chairman shall preside at all meetings of the Board at which he is present. In the absence of the Chairman from any meeting, the members present at the meeting may elect one of their own number to be Chairman at that meeting:

Conduct of business.

Provided, however, that if at any time it appears to the Chairman that he will be unable to discharge his duties for a period exceeding one week by reason of ill-health or other sufficient cause, the Chairman shall nominate a member of the Board temporarily to exercise and perform all the powers and duties of the Chairman until the resumption of duties by him.

(2) The Board shall have such quorum as may be prescribed.

(3) If at any meeting the Board is divided in opinion as to the decision to be given on any point or matter, such point or matter shall be decided according to the opinion of the majority of the members present; but if the members are equally divided, then the opinion of the Chairman shall prevail.

(4) The Board may regulate its own procedure in any matter not provided for in this Ordinance or by regulation.

Appointment of Secretary.

4 The Board shall, subject to the approval of the Governor, appoint any person by name or by office to be the Secretary of the Board, and may at any time, subject to the like approval, remove such person from office and appoint another person in his stead. The Secretary shall receive such remuneration (if any) as may, with the approval of the Governor, be fixed by the Board.

Subordinate officers.

5 For the purpose of carrying out the provisions of this Ordinance, the Board may, with the approval of the Governor appoint and, with the like approval, remove such officers and servants, other than the Secretary, as it may think necessary. It may also from time to time fix and alter the salaries and allowances attached to such offices.

Remuneration of members of the Board.

6 Regulations may be made providing for—

- (a) the payment of fees to any or all of the members of the Board for attendance at meetings of the Board and the rates at which such fees shall be computed;
- (b) the payment of an allowance in respect of travelling done by any or all of the members of the Board outside the Municipal limits of the town of Colombo in the discharge of their duties as members of the Board, and the rates at which such allowance shall be computed.

Branch Boards.

Establishment of Branch Boards.

7 The Board may from time to time establish such number of Branch Debt Conciliation Boards as may be necessary—

- (a) to advise and assist the Board in any matter on which the advice and assistance of the Branch Board is sought by the Board;
- (b) to deal, as hereinafter provided, with any one or more applications referred to the Branch Board by the Board.

Constitution of Branch Boards.

8 (1) Every Branch Board shall consist of a Chairman, who shall be a member of the Board, and such number of other members appointed by the Board, not exceeding four and not being less than two, as the Board may determine.

(2) Any member of a Branch Board may at any time—

- (a) resign from his office on the Branch Board;
- (b) be removed from office by the Board.

(3) Any person ceasing to be a member of a Branch Board shall be eligible for re-appointment thereto.

Conduct of business by Branch Boards.

9 (1) The Chairman of a Branch Board shall preside at all meetings of the Branch Board.

(2) A Branch Board shall have such quorum as may be prescribed.

(3) The procedure to be followed at the meetings of the Branch Board shall be prescribed.

Remuneration of members of Branch Boards.

10 Regulations may be made providing for the payment of fees to any or all of the members of a Branch Board for attendance at meetings of the Branch Board and for any work done or any travelling performed in the discharge of their duties as members of the Branch Board, and the rates at which such fees shall be computed.

Delegation of powers by the Board to a Branch Board.

11 (1) The Board may at any time, in respect of any one or more applications received by it, delegate to any Branch Board all or any of its powers under this Ordinance.

(2) Every delegation under this section shall be made by order in writing under the hand of the Chairman of the Board and shall specify the powers so delegated and the particular application or applications in respect of which such delegation is made; and, upon such delegation, it shall be lawful for the Branch Board to exercise in respect of such application or applications the powers so delegated in all respects as if it were the Board.

Special provisions relating to members of the Board and of Branch Boards.

12 Any member of the Board or of a Branch Board who participates in any discussion on, or in the consideration, hearing, or determination of, any application or other matter before the Board or the Branch Board, as the case may be—

- (a) where the applicant or any other party is a debtor or creditor of his or is in partnership with him or in his employ; or
- (b) where he has a pecuniary interest in the property or assets of the debtor or of a creditor,

shall be guilty of an offence and shall be liable on conviction before a Police Magistrate to a fine not exceeding one thousand rupees or, in default of payment, to imprisonment of either description for a period not exceeding three months.

13 Every member of the Board and of a Branch Board shall be deemed to be a public servant within the meaning of the Ceylon Penal Code.

Application to the Board by a debtor or creditor.

14 (1) A debtor may make an application to the Board to effect a settlement between him and—

- (a) all or any one or more of his secured creditors, or
- (b) all his creditors, whether secured or unsecured.

(2) Unless a debtor has already made an application under sub-section (1) any secured creditor of the debtor may make an application to the Board to effect a settlement between him and his debtor.

(3) Applications for effecting a settlement made by a debtor and any of his creditors at the same time may be consolidated and the debtor shall thereafter be considered to be the applicant.

15 Every application under the preceding section shall be in writing, signed by the applicant, and shall be forwarded to the Board in the prescribed manner, together with such affidavits as may be requisite to furnish *prima facie* proof of the material facts set out or alleged in the application.

16 Every affidavit submitted under section 15 shall contain a statement of only those facts to which the declarant is able of his own knowledge and observation to testify:

Provided, however, that a statement of the declarant's belief may be set forth in any such affidavit where the grounds of such belief are stated.

17 Every application made by a debtor to the Board shall contain the following particulars:—

- (a) the name, description, and place of residence of the applicant;
- (b) a statement that the applicant is desirous of obtaining relief;
- (c) particulars of the debt or debts in respect of which relief is sought, and of all debts due to secured creditors by the applicant, together with the names and residences of such creditors so far as they are known to and can by the exercise of reasonable care be ascertained by him;
- (d) the number and date of each mortgage bond, the amount payable as principal and as interest on each bond, together with a clear description of the land affected by each bond and the situation of such land;
- (e) particulars of all debts due by the applicant to unsecured creditors, together with the names and residences of such creditors so far as they are known to or can by the exercise of reasonable care be ascertained by him;
- (f) particulars of the applicant's property both movable and immovable (including debts or claims due to him), a specification of the estimated value thereof and the places where the immovable property is situated or where the movable property may be found.

18 Every application made by a creditor shall contain the following particulars:—

- (a) the name, description and place of residence of the applicant;
- (b) the name, description and place of residence of the debtor;
- (c) the amount and particulars of the applicant's claim against such debtor.

Penalty on member for hearing, considering, &c. application in which he has an interest.

Members to be public servants.

Application by debtor or creditor.

Mode of application.

Affidavits.

Particulars to be set out in debtor's application.

Particulars to be set out in creditor's application.

Powers and duties of the Board and procedure to be followed on receipt of application.

Applications involving matters already the subject of pending actions.

19 The Board shall not entertain any application by any debtor or creditor in respect of a debt which is the matter directly and substantially in issue in a previously instituted action which is pending in any court between the same parties or between parties under whom they or any of them claim litigating under the same title :

Provided that nothing herein contained shall be held to affect the right of the Board to deal with any application referred to it under section 45.

Effect of insolvency proceedings on applications to the Board.

20 (1) Where an application under this Ordinance has been made to the Board by any debtor or by any creditor of his for the settlement of any debt and it appears to the Board that proceedings under Ordinance No. 7 of 1853 are pending in any court in respect of the insolvency of that debtor, the Board shall, whether or not proceedings under this Ordinance have already commenced upon such application, forthwith dismiss such application.

(2) The dismissal of any application under sub-section (1) shall not be a bar to a further application.

Matters to be taken into consideration by the Board.

21 The Board in coming to a decision on any application may take into consideration :—

- (a) the amount actually lent to or received by the debtor ;
- (b) the reasonableness of the rates of interest charged ;
- (c) the amount of interest that has been left to accumulate ;
- (d) the amount that has already been paid as or by way of interest and other charges ;
- (e) the onerous conditions, if any, subject to which the loan was granted ;
- (f) the capacity of the debtor to repay ;
- (g) any other particulars which the Board thinks it desirable to take into account.

Return of application for amendment.

22 The Board may, if it is of opinion that any application is substantially defective in any of the particulars required by section 17 or section 18, return the application and order that it be amended within such time as may be fixed by the Board. If the application is not amended as ordered by the Board it shall be deemed to have been withdrawn by the applicant.

Fixing of date for preliminary hearing of application.

23 (1) On receipt of an application under section 14 or, where an application is returned for amendment under section 22, on receipt of the amended application, the Board shall make order fixing a date and place for the preliminary hearing of the application or amended application, as the case may be.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the applicant, and, where the application is made by a creditor, such notice shall also be sent to the debtor.

Preliminary hearing of application.

24 (1) At the time and place appointed under section 23 (1), the Board shall examine the applicant.

(2) Where the application has been made by a creditor—

- (a) the Board shall at the time and place appointed under section 23 (1), in addition to the examination required by sub-section (1), also examine the debtor ;
- (b) the debtor shall at the same time and place furnish in writing a statement of the particulars mentioned in paragraphs (c), (d), (e) and (f) of section 17 ;
- (c) if the debtor desires that the Board should attempt to effect a settlement between him and all his creditors, whether secured or unsecured, he shall annex to the statement of particulars furnished under paragraph (b) a written request to that effect.

Action taken where Board decides to attempt to effect a settlement.

25 (1) Where, after holding the examination required by section 24, the Board is of opinion that it is desirable to attempt to effect a settlement between the debtor and all or any of his secured creditors, the Board shall cause a notice signed by the Secretary to be served in the prescribed manner on each secured creditor of the debtor, calling upon him to submit, within a time specified in the notice, a statement of debts owed to him by that debtor.

(2) Where, after holding the examination required by section 24, the Board is of opinion that it is desirable to attempt to effect a settlement between the debtor and all his creditors, whether secured or unsecured, the Board shall cause such a notice as is mentioned in sub-section (1) to be served in the prescribed manner on every creditor, whether secured or unsecured, of the debtor.

(3) Every notice under sub-section (1) or sub-section (2) shall also be published in the Gazette and in any other manner that may be prescribed.

(4) Any creditor of the debtor on whom notice has not been served under sub-section (1) or sub-section (2) may furnish a statement of debts owed to him by that debtor in response to the notice published under sub-section (3).

(5) The statement of debts referred to in sub-sections (1) and (4) shall be in writing and signed by the creditor and shall contain a verifying clause on oath to the effect that the averments contained therein are true. Such statement shall be submitted to the Board within the time fixed by the notice :

Provided that a period of at least sixty days computed in the prescribed manner from the date of the publication or the service of the notice, whichever is later, shall be allowed for the submission of such statement :

Provided further that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to submit the statement within the time allowed, it may extend the period for the submission of his statement.

26 Where any creditor fails substantially to comply with the directions in the notice issued to him under sub-section (1) or sub-section (2) of section 25, the Board shall grant to the debtor a certificate in the prescribed form in respect of the debts owed by him to that creditor :

Grant of certificate on failure of creditor to comply with notice.

Provided that if any creditor proves to the satisfaction of the Board that the notice was not served on him and that he had no knowledge of such notice, the Board may recall the certificate upon the creditor filing an application in that behalf within a reasonable time after he becomes aware of the grant of the certificate. The Board shall in such a case order the application to be proceeded with as from the stage at which the failure to serve the notice happened, upon such terms as the Board shall deem fit.

27 On receipt of the statement of debts mentioned in section 25, the Board shall appoint a day and place for the hearing and determination of the application, and notice thereof signed by the Secretary shall be served on the debtor and creditor or creditors in the prescribed manner.

Appointment of date for hearing and determination.

28 On the day fixed for the hearing and determination of the application the Board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

Procedure at hearing.

29 If any creditor fails to appear on the day fixed for the hearing and determination of the application, the Board may grant a certificate to the debtor in the prescribed form in respect of the debts owed by him to that creditor.

Grant of certificate on default in appearance by creditor.

30 If all or any one of more of the creditors come to an amicable settlement with the debtor, such settlement shall, if approved by the Board, be reduced to writing and shall be signed by the debtor and the creditor or creditors who have agreed to the settlement, and it shall be attested by the Chairman of the Board. Such writing shall be conclusive evidence of the agreement between the debtor and the creditor or creditors who have duly signed the settlement.

Amicable settlement.

31 If all the secured creditors and the creditors to whom not less than fifty per cent. of the total amount of the unsecured debts are due agree to accept any settlement proposed by the debtor or suggested by the Board, such settlement shall be reduced to writing and shall set out the amounts payable to each of the secured and unsecured creditors and the manner in which, the assets from which, and the times at which such amounts are to be paid. Such agreement shall be signed by the debtor and each of the creditors who have agreed to the settlement and shall be attested by the Chairman of the Board. It shall then be as effectual and binding in all respects upon all the creditors who have not signed such agreement as upon those creditors who have duly signed the same, and the creditors who have not signed the agreement shall be deemed to be parties to the agreement.

Settlement with secured and unsecured creditors.

32 (1) Save as provided in section 31, if no amicable settlement is arrived at between the debtor and any creditor, the Board shall dismiss the application so far as it relates to the debts due to that creditor.

Dismissal of application.

(2) Notwithstanding anything in sub-section (1), the Board may if it thinks fit dismiss any application at any stage of the proceedings.

Grant of certificate on refusal of creditor to agree to reasonable settlement.

33 Where any application is dismissed under section 32 (1) the Board may, if it is of opinion that the debtor has made the creditor a fair offer which that creditor ought reasonably to have accepted, grant the debtor a certificate in the prescribed form in respect of the debts owed by him to that creditor.

Certain property not to be taken into account in any scheme of debt conciliation.

34 All such property as is exempt from seizure and sale under section 218 of the Civil Procedure Code, 1889, shall not be taken into account in any scheme of debt conciliation under this Ordinance.

Maximum amount allowable in satisfaction of a debt.

35 In any scheme of debt conciliation under this Ordinance, no creditor shall be allowed a greater amount in satisfaction of both the principal and interest due to him than twice the amount of such principal.

Rights of secured creditor who does not agree to settlement.

36 Where any secured creditor does not agree to any settlement entered into under section 30, such settlement shall not affect the rights of that creditor to proceed against the property secured for repayment of the debt due to that creditor.

Power of Board to decide dispute.

37 If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor the Board may decide the matter after hearing such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the Board :

Provided that a decree of a court relating to a debt shall be *prima facie* evidence that the debtor was indebted to the creditor at the time of the decree in the sum specified therein.

Signature of agent to bind debtor or creditor as the case may be.

38 The duly authorised agent of any debtor or creditor may consent to any settlement under section 30 or section 31 on behalf of that debtor or creditor, and where such agent so agrees to any settlement, the settlement shall be binding on that debtor or creditor, as the case may be.

Effect of certificate.

39 Where any creditor brings an action in any court for the recovery of any debt in respect of which a certificate has been granted under this Ordinance, the court shall, notwithstanding the provisions of any law for the time being in force, not allow the petitioner any costs in such action or any interest on the amount of the debt after the date of such certificate in excess of simple interest at a rate higher than five per centum per annum or higher than the rate agreed upon between the debtor and the creditor, whichever is less :

Provided that it shall be lawful for the court to grant to the petitioner the costs of execution of the decree entered in any such action.

Effect of settlement.

40 A settlement made under section 30 or section 31 shall be final between the parties and on the attestation of the settlement by the Chairman of the Board, the cause of action in respect of any debt dealt with in the settlement shall become merged in the settlement.

Procedure subsequent to settlement.

Registration of settlement.

41 (1) Every settlement entered into under section 30 or section 31 shall, within the prescribed period from the date of the attestation thereof, be delivered or transmitted by the Secretary to the proper registrar of lands for registration. For the purposes of the application to such registration of the provisions of the Registration of Documents Ordinance, No. 23 of 1927, the settlement shall be deemed to be an instrument affecting or relating to each land dealt with in the settlement.

(2) The fees necessary for the registration under subsection (1) shall be furnished to the Secretary by the debtor or by the creditor, as the Board may direct.

Certified copy of settlement to be sent to such bank or other institution as the Executive Committee may specify.

42 A copy of every settlement made under section 30 or section 31, certified under the hand of the Secretary as a true copy of such settlement shall, within the prescribed period from the date of the attestation thereof, be forwarded to such bank or other institution as the Executive Committee may by Notification published in the Gazette specify for the purposes of this section.

Application to court for execution in terms of settlement.

43 (1) Where a settlement has been attested by the Chairman, and the debtor has failed to comply with the terms of the settlement, any creditor interested in the matter of the settlement may apply to any court having jurisdiction over the movable or immovable property dealt with in such settlement that such settlement be filed in court. The application shall be by petition in the way of summary

procedure and the parties to the settlement, other than the petitioner, shall be named respondents, and the petitioner shall aver in the petition that the debtor has failed to comply with the terms of the settlement.

(2) If the court is satisfied on the evidence exhibited or adduced that the material facts of the petition are *prima facie* established and is of opinion that on the footing of these facts the petitioner is entitled to the order in his favour then the court shall make an order *nisi* conditioned to take effect in the event of the debtor not showing cause against it on a day appointed in the order for that purpose.

(3) For the purposes of this section "summary procedure" has the same meaning as in Chapter XXIV of the Civil Procedure Code, 1889.

44 If on the hearing of an application under section 43 the debtor fails to prove that there has been no default in compliance with the terms of the settlement the court shall order the settlement to be filed and shall proceed to enter a decree in accordance with the terms of such settlement. No appeal from, or application for revision of, any decree so entered shall lie to the Supreme Court.

Decree to be entered by court and to be final.

Reference by Court.

45 Where an action has been instituted in a court by a secured creditor to enforce a right of sale under a mortgage or to obtain a decree for the payment of money in satisfaction of a claim arising under a mortgage and at any time before decree is entered the parties agree that the matter in dispute between them be referred to the decision of the Board, the court shall refer the matter to the Board.

Reference by court.

46 On receipt of a reference from a court under section 45, the Board shall appoint a day and place for inquiring into the matter and notice thereof signed by the Secretary shall be served on the debtor and creditor in the manner prescribed. On or before the appointed date each party shall submit a concise statement of his case in writing.

Procedure on reference by a court.

47 (1) On the appointed date the Board shall after reading such statements call upon each of the parties respectively to explain his case.

Hearing before Board on reference.

(2) If neither party appears when the case is called, the Board shall make an order dismissing the plaintiff's action. If one party fails to appear on the day fixed for the inquiry without good and sufficient cause and if on the occasion of such default the other party appears, the Board shall inquire into the matter and make its decision.

(3) If the parties come to an amicable settlement such settlement shall be reduced to writing and shall be signed by the parties and it shall be attested by the Chairman of the Board.

(4) If the parties fail to arrive at an amicable settlement and in the opinion of the Board it is desirable so to do, the Board shall, after considering the written statements referred to in section 46 and the evidence, if any, make its decision on the matter in dispute.

(5) A copy of the order referred to in sub-section (2) or a copy of the settlement referred to in sub-section (3) or the decision referred to in sub-section (4), certified under the hand of the Chairman of the Board, shall be forwarded by the Chairman to the court which referred the matter to the Board.

48 The court shall proceed, on a day of which notice shall be given to the parties, to give judgment according to the order, settlement or decision referred to in section 47. Upon the judgment so given a decree shall be framed, and no appeal from, or application for revision of, any decree so entered shall lie to the Supreme Court.

Decree based on order of Board to be entered by court and to be final.

Special provisions relating to proceedings before the Board.

49 The provisions of the Evidence Ordinance, 1895, shall not apply to proceedings before the Board.

Rules of evidence. No. 14 of 1895.

50 (1) The provisions of the Civil Procedure Code, 1889, relating to—

Application of certain provisions of the Civil Procedure Code to proceedings under this Ordinance.

- (a) the enforcing of the attendance of any person and his examination on oath;
- (b) the enforcing of the production of documents; and
- (c) the issuing of commissions for the examination on interrogatories or otherwise of any person,

shall apply to all proceedings under this Ordinance, and the Board shall have the powers of a court in respect of the aforementioned matters.

(2) Any person present at a hearing before the Board may be required by it to furnish any information or to produce any document then and there in his possession or power.

(3) Any person who when summoned by the Board to attend or when required by the Board to produce any document or book refuses or, without reasonable cause, neglects to attend; or to produce such document or book, or who, when summoned by the Board to attend, attends and refuses to be sworn or affirmed or to be examined, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

Appearance of parties.

51 In any proceedings before the Board any party may appear in person, or, with the permission of the Board, by a legal practitioner or an agent authorised in writing.

Exemption of certain documents from stamp duty.

52 All applications, statements, orders, certificates, settlements, notices and other documents in proceedings before the Board under this Ordinance shall be exempt from stamp duty.

Bar of appeal to or revision by Supreme Court.

Review of decisions of the Board.
53 No appeal or application for revision to the Supreme Court shall lie against any order passed by the Board.

Power of Board to review its order.

54 (1) The Board may, of its own motion or on application made by any person interested, within six months from the making of an order by the Board dismissing an application, or granting a certificate, or approving a settlement, or before the payment of the compounded debt has been completed, whichever date is earlier, review any order passed by it and pass such other order in reference thereto as it thinks fit.

(2) No order shall be reviewed under sub-section (1) unless previous notice of the application or of the intention of the Board to review its order has been served in the prescribed manner on the parties interested in the order which is to be reviewed.

(3) No application to review an order made by the Board under sub-section (1) shall be entertained.

(4) The period of six months referred to in sub-section (1) shall be computed in such manner as may be prescribed.

(5) The Board shall, as soon as may be, cause to be made all such alterations in the registration effected under section 41 as may be necessary by reason of the revision under sub-section (1) of any order made by the Board.

Miscellaneous.

Bar against execution of decree.

55 Where, after the attestation of a settlement by the Board any creditor sues for the recovery of a debt incurred after the date of such attestation any decree passed in such action shall, notwithstanding anything contained in the Civil Procedure Code, 1889, not be executed against the assets, if any, set apart in the settlement for the satisfaction of the debts specified in such settlement, until all amounts recorded as payable under such settlement have been paid.

Bar of civil actions.

56 No civil court shall entertain—

(a) any action in respect of—

(i) any matter pending before the Board; or

(ii) the validity of any procedure before the Board or the legality of any settlement;

(b) any application to execute a decree, the execution of which is suspended under section 55.

Alienation, &c. of land in pursuance of a settlement not to be deemed a fraudulent preference.

57 No mortgage, transfer, or alienation of any land and no transaction affecting any land made with the sanction of the Board in order to give effect to any settlement attested under section 30 or section 31, shall be deemed by any court to be a fraudulent preference within the meaning of section 58 of Ordinance No. 7 of 1853.

Computation of period of prescription for suits and proceedings.

58 In calculating the period of prescription for the purposes of any action filed in or proceeding before a civil court for the recovery of any debt which was the subject of any proceedings under this Ordinance, the period that elapsed between the making of the application under section 14 in respect of that debt and the date of the dismissal of the application, or of the grant of the certificate, or of the signing of the settlement, as the case may be, shall be excluded.

Proof of proceedings before the Board.

59 (1) Every document purporting to be an order or other instrument issued by the Board and signed by the Secretary or other person authorised by the Chairman to act on behalf of the Secretary, shall be received in evidence in all courts and be deemed to be such order or instrument without further proof, unless the contrary be proved.

(2) A certificate signed by the Chairman that any order purporting to be made by the Board is so made shall be conclusive evidence of the fact so certified.

60 (1) Nothing in this Ordinance shall apply or be deemed to apply to any debt due to the Crown, or to affect the rights of His Majesty or His Heirs or Successors in respect of the recovery of any such debt.

Ordinance not to apply to debts due to the Crown and prescribed persons or bodies.

(2) Regulations may be made declaring that this Ordinance shall not apply or be deemed to apply to any debt due to any prescribed person or body, or affect the rights of any such person or body in respect of the recovery of any such debt.

61 (1) The Executive Committee of Agriculture and Lands may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), the Executive Committee of Agriculture and Lands may make regulations for and in respect of all or any of the following matters—

- (a) all matters stated or required in this Ordinance to be prescribed ;
- (b) the forms of applications, notices, certificates, required to be made, issued or used for the purposes of this Ordinance ;
- (c) the procedure to be followed at the hearing of applications ;
- (d) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this sub-section.

62 (1) No regulation shall have effect unless it has been approved by the State Council and ratified by the Governor. Notification of such approval and ratification shall be published in the Gazette.

Approval and ratification of regulations.

(2) Every regulation made by the Executive Committee shall, upon the publication of a notification of the approval and ratification of that regulation as provided for in sub-section (1), be as valid and effectual as if it were herein enacted.

63 In this Ordinance unless the context otherwise requires—

Interpretation.

“ agricultural property ” means any land used for the purposes of agriculture or horticulture, or for any purpose of husbandry inclusive of the keeping or breeding of live-stock, poultry or bees, and the cultivation of fruits, vegetables, and the like ;

“ Board ” means the Debt Conciliation Board established under section 2 ;

“ Branch Board ” means a Branch Debt Conciliation Board established under section 7 ;

“ court ” means a court in which civil actions may be brought ;

“ creditor ” means a person to whom a debt is owing ;

“ debt ” includes all liabilities owing to a creditor in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, and whether mature or not, but does not include arrears of wages or any money for the recovery of which an action is barred by prescription ;

“ debtor ” means a person—

(i) who has created a mortgage or charge over an agricultural property or any part thereof, and

(ii) whose debts in respect of such property exceed the prescribed amount ;

“ Executive Committee ” means the Executive Committee of Agriculture and Lands ;

“ prescribed ” means prescribed by regulation ;

“ regulation ” means a regulation made by the Executive Committee under this Ordinance ;

“ secured creditor ” means a person holding a mortgage or charge on the immovable property of the debtor or any part thereof created by a notarial instrument as a security for a debt due to him from the debtor ;

“ Secretary ” means the Secretary of the Board ;

“ secured debt ” includes a debt secured by a mortgage of immovable property and any debt in respect of which a charge on immovable property is created by a notarial instrument.

Objects and Reasons.

The object of this Bill is to establish a Debt Conciliation Board in Ceylon which will be empowered to effect settlements between debtors who have mortgaged agricultural lands and their creditors. It is provided, however, that the provisions of the new law shall not apply to debts due to the Crown or to any other person or body whom the Executive Committee may specify by regulation (Clause 60). The constitution of the Board is provided for by Clauses 2 to 6. The Board can be set in motion by an application made either by a debtor or by any creditor of his (Clause 14) and the requisites for an application are set out in Clauses 17 and 18. The Board will also have the power to deal with particular cases referred to it by a civil court at the request of the parties (Clause 45) and the procedure to be followed in such cases is specially provided (Clauses 46 to 48).

2. Where an application is made to the Board, the Board may either deal with the application itself in accordance with the provisions of Clauses 19 to 40 or refer the application to a Branch Debt Conciliation Board established under Clause 7. A Branch Board will in such a case either advise and assist the Board on the particular matter on which its advice and assistance is sought, or deal with the application in the same manner as the Board and for that purpose exercise such powers as the Board may delegate to it under Clause 11 in relation to the particular application.

The Board will not, under Clause 19, be permitted to deal with applications involving matters which are already the subject of pending actions; and under Clause 20, if insolvency proceedings are instituted in any court in respect of any debtor whose debts are the subject matter of an application to the Board, the Board is required to dismiss that application. The Board will have all the powers of a court under the Civil Procedure Code in respect of the enforcing of the attendance of witnesses, the production of documents, &c. (Clause 50), though it will not, unlike a civil court, be bound by the provisions of the Evidence Ordinance (Clause 49). No stamp duty will be payable on any documents or notices in any proceedings before the Board (Clause 52). Members of the Board and of Branch Boards are by Clause 13 declared to be public servants, and Clause 12 penalises any member who participates in the hearing of any application in which he has an interest. Clauses 6 and 10 provide for the remuneration of members of the Board and of a Branch Board.

3. After the preliminary hearing of an application (Clause 24), the Board will decide whether it is a case in which it is desirable that an attempt should be made to effect a settlement between the debtor and all or any of his secured creditors (that is, creditors whose debts are secured by a mortgage or charge over immovable property). If the Board decides to move in the matter a notice will issue calling on such creditors to submit within a specified time statements of debts owed to them by the debtor (Clause 25). Although the Board will normally deal only with the secured debts of a debtor, it is empowered by Clause 25 (2) in a suitable case to deal with all the debts of a debtor, whether secured or unsecured. At the hearing of the application, at which both the debtor and the creditors will be present, the Board will inquire into the matter and attempt to effect a settlement. Some of the matters which should guide the Board in considering applications are set out in Clause 21. If any creditor fails substantially to comply with a notice calling on him to submit a statement of debts owed to him (Clause 26) or if he fails to appear at the hearing of the application (Clause 29), or if at the hearing the creditor rejects a settlement which the Board considers fair and reasonable (Clause 33), the Board is empowered to grant a "certificate" in the prescribed form to the debtor in respect of the debts owed by him to that creditor. The effect of this certificate will be that in any subsequent action brought by the creditor in respect of any debt covered by the certificate, he will be deprived of costs of the action, and his right to interest on the amount of the debt will be restricted in certain respects (Clause 39).

4. Where, at the hearing of the application, the debtor and any creditor or creditors come to an amicable settlement of which the Board approves, the settlement will be reduced to writing and signed by the parties and by the Chairman of the Board. (Clause 30). In a case in which the Board is dealing with all the debts, secured as well as unsecured, of a debtor, if all the secured creditors and the creditors to whom not less than fifty per cent. of the total amount of the unsecured debts are due agree to accept a settlement,

the settlement will be reduced to writing and will then bind not only those creditors who have acquiesced in the settlement, but also those who have not acquiesced in it (Clause 31). Where no settlement is arrived at between the debtor and any particular creditor, the Board will, except in the case dealt with in Clause 31, dismiss the application so far as it relates to the debts due to that creditor (Clause 32) and the rights of a secured creditor in such a case to proceed against the mortgaged property will not be affected by the fact that the other creditors have entered into a settlement (Clause 36).

5. Property which is exempt from seizure and sale under section 218 of the Civil Procedure Code will not be taken into account in any scheme of debt conciliation (Clause 34) nor will any creditor be allowed a greater amount in satisfaction of both principal and interest due to him than twice the amount of the principal (Clause 35). Clause 41 provides for the registration of settlements in the same manner as instruments affecting land and Clause 42 provides that a copy of every settlement should be sent to any bank or other institution specified by the Executive Committee of Agriculture and Lands. It is intended that, when the necessary legislation has been passed empowering any bank or other institution to grant long term loans for the relief of agricultural debtors, that bank or institution will be specified by the Executive Committee for the purposes of this clause. Clauses 43 and 44 provide the procedure to be followed where a debtor does not abide by the terms of a settlement entered into by him before the Board. The settlement will, after the debtor has been given an opportunity of being heard, be filed in court and a decree entered in terms of the settlement. There will be no appeal against any decree so entered.

Clause 55 provides that, where after a settlement has been entered into, any creditor sues for the recovery of any debt incurred after the date of the settlement, the decree entered in any such action shall not be executed against the assets set apart in the settlement for the satisfaction of the debts specified in such settlement until all amounts payable under the settlement are paid.

Clause 56 provides that a civil court shall not entertain any action in respect of any matter pending before the Board or the validity of any proceedings before the Board.

6. Under Clause 53 the decision of the Board on any matter is final, subject to the Board's own right of review under Clause 54, and no appeal or application for revision to the Supreme Court will be available against any order passed by the Board.

Clause 61 confers on the Executive Committee the power to make regulations for the matters mentioned in that clause. All such regulations will be subject to approval by the State Council and ratification by the Governor.

D. S. SENANAYAKE,
Minister for Agriculture and Lands.

Colombo, December 10, 1937.

MINUTE.

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

An Ordinance to amend the Tea (Control of Export) Ordinance, No. 11 of 1933.

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

1 This Ordinance may be cited as the Tea (Control of Export) Amendment Ordinance, No. of 1938.

Short title.

2 Sub-section (4) of section 23 of the Tea (Control of Export) Ordinance, No. 11 of 1933, is hereby amended, in paragraph (c) thereof, by the substitution for the words "so deducted" of the following:—

Amendment of section 23 (4) of Ordinance No. 11 of 1933.

"so deducted:

Provided, however, that the Controller may, if he is of opinion that the amount of such surplus is so small that it is impracticable so to allocate it, cause tea coupons representing the amount of such surplus to be sold in such manner as he may deem fit and the proceeds of such sale credited to the Tea Control Fund."

Objects and Reasons.

For the purpose of making necessary adjustments in the assessment of the standard crops or exportable maxima of estates and small holdings the Tea Controller is empowered by section 23 (4) of the Tea (Control of Export) Ordinance, No. 11 of 1933, to make deductions from the amount of the standard crop of every estate and small holding. Any surplus left over after the total amount so deducted has been applied for all authorised purposes must at present be allocated by the Controller *pro rata* among the proprietors of the estates and small holdings from the standard crop of which the deductions were made. It sometimes happens that the amount of the surplus is so small that a *pro rata* allocation is not practicable as it would necessitate the allocation to some proprietors of coupons representing a fraction of a pound of tea. The better course in such circumstances appears to be to empower the Controller to sell coupons representing the amount of the surplus and have the proceeds of the sale credited to the Tea Control Fund so that the tea industry as a whole might benefit.

This Bill confers on the Controller the powers necessary for the purpose.

D. S. SENANAYAKE,
Minister for Agriculture and Lands.

Colombo, December 11, 1937.

MINUTE.

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

L. D.—O 63/36

No. 8 of 1912.

**An Ordinance further to amend the Excise Ordinance,
No. 8 of 1912.**

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

Short title.

1 This Ordinance may be cited as the Excise (Amendment) Ordinance, No. of 1937.

Amendment of section 3 of Ordinance No. 8 of 1912.

2 Section 3 of the Excise Ordinance, No. 8 of 1912, (hereinafter referred to as "the principal Ordinance"), is hereby amended in paragraph (1) by the omission of the words "or intoxicating drugs" at the end of that paragraph.

Amendment of section 14 of the principal Ordinance.

3 Section 14 of the principal Ordinance is hereby amended in paragraph (e) by the substitution for the words "shall be worked;" at the end of that paragraph, of the words "shall be established or worked;".

Amendment of section 17 of the principal Ordinance.

4 Section 17 of the principal Ordinance as amended by section 77 (2) of the Poisons, Opium and Dangerous Drugs Ordinance, 1929, is hereby further amended by the substitution for the words "No excisable article shall be sold without a licence from the Government Agent;" of the words "No excisable article shall be sold, or kept or exposed for sale, without a licence from the Government Agent;".

Insertion of new section 36A in the principal Ordinance.

5 The following new section shall be inserted immediately after section 36 of the principal Ordinance, and shall have effect as section 36A of that Ordinance :—

Power to cut spadices of trees tapped without licence in Tree Tax Areas.

36A. (1) Where in any Tree Tax Area an authorised officer at any time finds fermented toddy in any pot hanging under a spadix from any tree, he may, if he is satisfied that no licence is in force authorising the manufacture of fermented toddy from that tree, cut such spadix or cause such spadix to be cut in his presence and under his supervision :

Provided that such spadix shall not be cut, if at that time—

(a) a tapper is found upon such tree ; or

(b) any person agrees in writing to pay within twenty-four hours the duty or fee, as the case may be, for a licence authorising the manufacture of fermented toddy from that tree together with the penalty imposed under sub-section (4).

(2) Where the officer who at any time finds fermented toddy in the circumstances specified in sub-section (1) is an Excise Inspector, he shall not cut the spadix or cause such spadix to be cut, unless he was at that time accompanied by—

- (a) an officer of the Excise Department whose rank is higher than that of an Excise Inspector ;
- (b) an authorised officer who is an officer of the Revenue Department ; or
- (c) the Mayor or Chairman, as the case may be, of the local authority within the limits of which the fermented toddy is found ; or
- (d) the member of the local authority for the ward or division, as the case may be, within the limits of which the fermented toddy is found ;
- (e) a person (other than an officer in the service of the Government) appointed under paragraph (c) of section 7 ; or
- (f) a Justice of the Peace.

(3) Where the officer who at any time finds fermented toddy in the circumstances specified in sub-section (1), is an officer of the Revenue Department of a rank below that of Chief Headman or Muhandiram, he shall not cut the spadix or cause such spadix to be cut, unless he was at that time accompanied by—

- (a) an officer of the Revenue Department of a rank not below that of Chief Headman or Muhandiram ; or
- (b) an authorised officer who is an officer of the Excise Department ; or
- (c) any one of the persons specified in paragraphs (c), (d), (e) and (f) of sub-section (2).

(4) The Excise Commissioner is hereby empowered to prescribe by notification the penalty required to be paid under paragraph (b) of the proviso to sub-section (1) in addition to the duty or fee for the licence referred to in that paragraph :

Provided that the amount of such penalty shall not exceed half the amount of such duty or fee, as the case may be.

(5) The agreement in writing referred to in paragraph (b) of the proviso to sub-section (1) shall be free of stamp duty.

(6) No prosecution shall be instituted or maintained against any authorised officer or against any of the persons specified in paragraphs (c), (d), (e) and (f) of sub-section (2) in respect of any act *bona fide* done or ordered to be done by any such officer or person in pursuance or supposed pursuance of the powers conferred by this section.

The provisions of this sub-section shall be read and construed as supplemental to the provisions of section 58.

(7) In this section—

“ authorised officer ” means—

- (a) an Excise Inspector or any other officer of the Excise Department whose rank is higher than that of an Excise Inspector or
- (b) a Police Vidane or any other Village Headman of rank equal to that of a Police Vidane though otherwise designated, or any other officer of the Revenue Department whose rank is higher than that of such Police Vidane or Village Headman ;

“ local authority ” means any Municipal Council, Urban District Council or Village Committee ;

“ Tree Tax Area ” means any area in which the duties for the time being imposed by resolution under section 21, or the fees the payment of which may for the time being be directed by the Governor under section 24, in respect of any licence authorising the manufacture of fermented toddy from any trees, are to be determined by reference to the number of trees to be tapped under such licence.

6 Section 40 of the principal Ordinance is hereby amended by the omission of the words “ or the unlawful cultivation or collection of any plants from which an intoxicating drug can be produced ”.

Amendment of section 40 of the principal Ordinance.

Replacement of section 42 of the principal Ordinance.

Closure of licensed premises.

7 Section 42 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

42. (1) The Government Agent may, by notice in writing addressed to any person to whom a licence has been issued authorising the sale of any excisable article at any premises, order such person to close such premises and to refrain from selling or supplying any excisable article from such premises at such time or for such period as may be specified in the notice—

- (a) if any detachment or any larger unit of soldiers or sailors is passing through or is encamped within the area supplied by such premises ;
- (b) if any riot, unlawful assembly, civil disturbance or breach of the peace exists, occurs or is apprehended within the area supplied by such premises ;
- (c) if a poll for any election, or any local option poll, is to be held within the area supplied by such premises ; or
- (d) if such premises are situated within or in the vicinity of any area for the time being declared to be a diseased locality under the provisions of any written law ;

Provided that in any case falling under paragraph (b), the powers conferred on a Government Agent by this sub-section may be exercised by a Police Magistrate, or by a Chief Headman, or by an officer of the Police Department of a rank not below that of Sub-Inspector.

(2) Every person, to whom a licence has been issued authorising the sale of any excisable article on any premises, shall close such premises during such time as any riot or civil disturbance occurs within the area supplied by such premises.

(3) Where any person closes any premises in accordance with the provisions of this section, the Excise Commissioner may, in his discretion, direct—

- (a) that such part as the Commissioner may think fit of any amount paid in advance to the Government by such person as fee, tax, duty or rent in respect of such premises, shall be refunded ; or
- (b) that payment of such part as the Commissioner may think fit of any amount due to the Government from such person as fee, tax, duty or rent in respect of such premises, shall be waived.

Addition of new section 59 to principal Ordinance.

Excise notifications to be judicially noticed.

8 The following section is hereby added at the end of the principal Ordinance, and shall have effect as section 59 of that Ordinance :—

59. (1) Every excise notification shall be published in the Government Gazette.

(2) A court shall take judicial notice of every excise notification.

(3) Where an excise notification is printed—

- (a) in any Excise Manual or other book or document purporting to be printed by authority or on the orders of Government or by the Government Printer or at the Ceylon Government Press ; or
- (b) in any document purporting to be an extract from any issue of the Government Gazette,

it shall be presumed, until the contrary is proved, that an excise notification in identical terms was published in the Government Gazette.

(4) In this section—

“ excise notification ” means a notification made or issued under this Ordinance or for the purpose thereof ;

“ court ” has the same meaning as in the Ceylon Evidence Ordinance, 1895.

No. 14 of 1895.

Objects and Reasons.

The principal object of this Bill is to add to the Excise Ordinance, No. 8 of 1912, a new section which will authorise the cutting of the spadix of an unlicensed tree in specified circumstances. It is considered that this is the only effective method of checking the illicit tapping of trees in areas in which the Tree Tax System is in force.

2. Clause 5 of the Bill inserts in the principal Ordinance a new section which provides that an “ authorised officer ”, as defined in that section, who finds fermented toddy in a pot hanging from any unlicensed tree may cause the spadix of that tree to be cut in his presence and under his supervision. Where the detection is made by an Excise Inspector he may

not cause the spadix to be cut unless, at the time of the detection, he was accompanied by a superior officer of his own department or by a Revenue Officer not below the rank of Police Vidane, or by one of the unofficials specified in the section; and where the detection is made by a Revenue Officer, he may not cause the spadix to be cut unless, at the time of detection, he was accompanied by a Chief Headman or Muhandiram or by an officer of the Excise Department not below the rank of Inspector, or by one of the unofficials mentioned in the section. It is considered desirable that this amendment of the law should be effected by the insertion of a new section in the principal Ordinance, and not by rules, in order that the scheme set out in the new section may receive the express approval of the State Council, and may not be varied except by legislative enactment.

3. The object of clauses 2 and 6 is to delete from sections 3 (1) and 40 of the principal Ordinance the references to intoxicating drugs and to the cultivation of plants from which intoxicating drugs can be produced.

Intoxicating drugs are now dealt with in the Poisons, Opium and Dangerous Drugs Ordinance, No. 17 of 1929, and the amendments of sections 3 (1) and 40 which are now proposed appear to have been inadvertently omitted from the list of amendments of the Excise Ordinance, No. 8 of 1912, set out in the Seventh Schedule to Ordinance No. 17 of 1929.

4. Clause 3 amends paragraph (e) of section 14 of the principal Ordinance, so as to make it necessary to secure a licence in order to establish a distillery. Section 43 (f) of the Ordinance already contains provisions to the effect that a person who establishes a distillery in contravention of the provisions of the Ordinance or of any licence obtained thereunder, shall be guilty of an offence.

5. Clause 4 amends section 17 of the principal Ordinance so as to prohibit the keeping or exposure for sale of any excisable article without a licence from the Government Agent. The amendment will bring this section into line with the provisions of section 43 (h) of the Ordinance.

6. The object of clause 8 is to insert in the principal Ordinance a new section which provides that a court shall take judicial notice of all excise notifications. The Evidence Ordinance requires a court to take judicial notice of all rules made under powers conferred by an Ordinance, but it has been doubted whether a court is bound to take judicial notice of acts required by law to be done by "notification". In order to facilitate the proof of excise notifications, provision has been added to the effect that all such notifications shall, like rules, be published in the Government Gazette and that the authenticity of extracts from the Gazette or of the Excise Manual shall be presumed until the contrary is proved.

D. B. JAYATILAKA,
Minister for Home Affairs.

Ministry of Home Affairs,
Colombo, December 11, 1937.

(Continued on page 1268.)

NOTIFICATIONS OF CRIMINAL SESSIONS.

BY virtue of a mandate to me directed by the Hon. the Supreme Court of the Island of Ceylon, I do hereby proclaim that a Criminal Session of the said court for the Western Circuit will be holden at the court-house at Hulftsdorp, on Monday, January 10, 1938, at 11 o'clock of the morning of the said day.

And I do hereby require and inform all persons concerned therein to attend at the time and place above mentioned, and not to depart without leave asked and granted.

Fiscal's Office,
Colombo, December 13, 1937.

J. R. TOUSSAINT,
for Fiscal.

BY virtue of a mandate to me directed by the Hon. the Supreme Court of the Island of Ceylon, I do hereby proclaim that a Criminal Session of the said Court for the Districts of Ratnapura and Avissawella will be holden at the court-house at Colombo on Monday, January 10, 1938, at 11 o'clock of the morning of the said day.

And I do hereby require and inform all persons concerned therein to attend at the time and place above mentioned, and not to depart without leave asked and granted.

Fiscal's Office,
Ratnapura, December 13, 1937.

R. S. V. POULIER,
Fiscal.

NOTICES OF INSOLVENCY.

In the District Court of Colombo.

No. 5,059. In the matter of the insolvency of Unus Lebbe Marikar Abdul Hamid of Pitwell Shoe Depot, 1st Cross street, Pettah, Colombo, presently of Grandpass in 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 February 22, 1938, for the grant of a certificate of conformity to the insolvent.

By order of court, GERALD E. DE ALWIS,
December 8, 1937. Secretary.

In the District Court of Colombo.

No. 5,112. In the matter of the insolvency of Zainul Abedeen Lantra of Mabole in Hunupitiya.

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 February 22, 1938, for the grant of a certificate of conformity to the insolvent.

By order of court, GERALD E. DE ALWIS,
December 8, 1937. Secretary.

In the District Court of Colombo.

No. 5,124. In the matter of the insolvency of Joseph Alwis Jayatilake of 271, Dematagoda road, in 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 February 22, 1938, for the grant of a certificate of conformity to the insolvent.

By order of court, GERALD E. DE ALWIS,
December 8, 1937. Secretary.

In the District Court of Colombo.

No. 5,135. In the matter of the insolvency of M. S. Periathambiy of 84, High street, Wellawatta, 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 February 22, 1938, for the grant of a certificate of conformity to the insolvent.

By order of court, GERALD E. DE ALWIS,
December 8, 1937. Secretary.

In the District Court of Colombo.

No. 5,172. In the matter of the insolvency of Francis Perera *alias* Hettiarachchige Francis Perera Wijesinghe of Pannipitiya.

WHEREAS the above-named Francis Perera *alias* Hettiarachchige Francis Perera Wijesinghe has filed a declaration of insolvency, and a petition for the sequestration of his estate has been filed by H. M. Thomas Perera of Pannipitiya, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said Francis Perera *alias* Hettiarachchige Francis Perera Wijesinghe insolvent accordingly; and that two public sittings of the court, to wit, on January 25, 1938, and on March 1, 1938, 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, GERALD E. DE ALWIS,
December 10, 1937. Secretary.

In the District Court of Chilaw.

No. 47. In the matter of the insolvency of Pulukkutti Aratchige Don Michael of Palugaswewa estate, Rajakadalawa, in the District of Chilaw.

WHEREAS Don Abraham Basnayake of Peliyagoda has filed a declaration of insolvency, and a petition for the sequestration of the estate of P. A. Don Michael, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said P. A. Don Michael insolvent accordingly; and that two public sittings of the court, to wit, on December 23, 1937, and on January 21, 1938, 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, S. P. STOUTER,
November 25, 1937. Secretary.

In the District Court of Kegalla.

Insolvency In the matter of the insolvency of A. M. Jurisdiction. Abdul Cader Lebbe of Mawanella.
No. 72.

NOTICE is hereby given that the Protection issued to the above-named insolvent is withdrawn.

By order of court, R. B. RATNAIKE,
December 10, 1937. Secretary.

NOTICES OF FISCALS' SALES.

Western Province.

In the District Court of Colombo.

Fredrick Wilfred Gunasekera of Woodlands, Etul Kotte, in the Palle pattu of Salpiti korale, executor of the estate of Ellen Goonaratne deceased .. Plaintiff

No. 246 Land.

Vs.

Hollupathirage Geeris Caldera of Blake road, Colombo .. Defendant

NOTICE is hereby given that on Tuesday, February 1, 1938, 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 the sum of Rs. 4,750 being amount due and Rs. 250 being costs, less a sum of Rs. 200, viz.:-

1. At 3 p.m.—All that portion of land called Etambagahawatta, with the buildings thereon, situated at Yakbedda road (now Gothami road), 1st lane, within the Municipality and District of Colombo, Western Province, bearing assessment No. 12 now 12/2; bounded on the north by land of G. J. Bandara, east by Crown land, south by land of John Rodrigo now temple property, and on the west by the property of Caldera and Galagedarage Don Charles; containing in extent 1 rood and 5 perches, and registered in A 170/22.

2. At 3.30 p.m.—All that defined southern half of the land called Pelengastuduwa *alias* Kauuketiyeekumbura, situated at Welikada in the Palle pattu of Salpiti korale in the District of Colombo, Western Province; bounded on the north by other part now of G. Don Johannis, east by land of G. Don Wanis, south by field of G. Don Martinus, and on the west by dam of Government cinnamon garden; containing in extent 1 acre 1 rood and 2 perches, and registered in M 368/3 exclusive of a portion in extent 1 rood.

Fiscal's Office,
Colombo, December 15, 1937.

J. R. TOUSSAINT,
Deputy Fiscal.

In the District Court of Colombo.

The Commissioner of Income Tax .. Plaintiff.

No. A I 1,022

Vs.

Ceylon Income Tax.

A. A. Cyril Perera of 102, Old Kolonnawa road, Dematagoda, administrator of the estate of the late Mrs. A. Porlentina Perera .. Respondent.

NOTICE is hereby given that on Thursday, January 27, 1938, at 3.30 p.m., will be sold by public auction at the premises the right, title, and interest of the said respondent, as administrator of the estate of the late Mrs. A. Porlentina Perera, in the following property for the recovery of the sums of Rs. 240 and Rs. 960, viz.:-

An undivided $\frac{1}{2}$ share of the field called Pinowita, situated at Talawatugoda in the Palle pattu of Hewagamu korale in the District of Colombo, Western Province; and bounded on the north by high road, on the east by the land belonging to Vithanage people and Malage people and owita, on the south by the field belonging to Naharanpitage Juwanis Perera and others, and on the west by Depa-ela; containing in extent about 4 acres 1 rood and 17 $\frac{1}{2}$ perches.

Fiscal's Office,
Colombo, December 15, 1937.

J. R. TOUSSAINT,
Deputy Fiscal.

In the District Court of Colombo.

A. R. N. Visvanathan Gettiari of Sea street, Colombo .. Plaintiff

No. 1,245/S.

Vs.

D. William Perera of Hospital street, Wellawatta .. Defendant

NOTICE is hereby given that on Monday, January 31, 1938, at 3 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. 670 together with interest thereon at 12 per cent. per annum from August 21, 1936, up to date of decree (December 7, 1936), and thereafter on the aggregate amount of the decree at 12 per cent. per annum till payment in full, viz.:-

All that allotment of land called Imbulgahawatta, together with the buildings thereon, situated at Godigomuwa in the Palle pattu of Salpiti korale in the District of Colombo

Western Province; bounded on the north by Jambughawatta of Venadirago Brampy Appu, on the east and south by high road leading to Maharagama junction, and on the west by Gorakagahawatta of Patirage Simon Perera and Millagahawatta of Mohottige Pabilis Perera; and containing in extent 3 acres 2 roods and 24 perches according to survey plan No. 1,125 dated April 17, 1917, and made by M. G. de Silva, Licensed Surveyor. Registered under title M 204/33.

Fiscal's Office,
Colombo, December 15, 1937.

J. R. TOUSSAINT,
Deputy Fiscal.

37 In the District Court of Colombo.

G. T. de Silva of Greenpath in Colpetty,
Colombo Plaintiff.
No. 5,828/M. Vs.

A. C. M. Abdul Cader of 36, Greenpath, Colpetty, and
35, Ferry street, Hulftsdorp, Colombo Defendant.

NOTICE is hereby given that on Friday, January 28, 1938, at 2 p.m., will be sold by public auction at 36, Greenpath, Colpetty, Colombo, the following movable property for the recovery of the sum of Rs. 1,820, less Rs. 400, plus Rs. 200, viz. :-

4 nadun loungers, 4 teakwood low chairs, 1 small chair, 3 teakwood round teapoy, 1 ditto stand, 1 porcelain flower vase, 2 teakwood cushioned settees, 4 ditto cushioned arm-chairs, 2 ditto cushioned chairs, 1 ebony teapoy, 4 nickel flower vases, 1 clock with glass case, 2 brass flower vases with stands, 2 teakwood corner whatnots, 4 aluminium flower vases, 1 teakwood cushioned couch, 4 teakwood cushioned chairs, 1 ditto teapoy, 1 teakwood arm-chair, 1 teakwood writing table, 1 ditto glass almirah, 1 ditto box, 1 ditto screen, 1 ditto cushioned settee, 2 ditto corner chairs, 1 oval teapoy, 1 show case (black), 1 gramophone with cabinet, 1 nadun cabinet, 1 wall clock, 1 Galle Gymkhana cup, 1 Abeysundara cup, 1 flower pot stand (silver colour), 1 dish (silver colour), 8 small flower vases (silver colour), 4 nadun chairs, 1 jak almirah, 1 jak toilet table, 2 teakwood loungers, 1 ditto round lounge, 1 ditto almirah fixed with mirror, 1 ditto table, 1 ditto sideboard fixed with mirror, 1 teakwood glass almirah, 1 ditto cabinet, 1 jak stand, 1 teakwood dining table, 2 ditto arm chairs, 6 ditto chairs, 1 jak ice box, 1 teakwood whatnot with marble top, 1 ditto table with marble top, 1 ditto almirah fixed with mirror, 1 ditto writing table, 1 jak almirah fixed with mirror, 1 iron safe, 10 teakwood flower pots, 6 flower pot stands (marble), 15 pots with flower plants.

Fiscal's Office,
Colombo, December 15, 1937.

J. R. TOUSSAINT,
Deputy Fiscal.

In the Court of Requests of Colombo.

K. G. Edmund of Dematagoda road, Maradana,
Colombo Plaintiff.
No. 32,007. Vs.

(1) Turin Perera and (2) Mrs. Mayawanie Perera, both
of Norris Canal road, Maradana, Colombo Defendants.

NOTICE is hereby given that on Wednesday, January 26, 1938, at 4 p.m., 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 the sum of Rs. 207.30, with interest of Rs. 200 at 18 per cent. per annum from May 14, 1937, to June 22, 1937, and thereafter legal interest on the aggregate amount till payment in full and costs incurred Rs. 26.25 and costs prospective Rs. 11, less Rs. 30, viz. :-

A portion of the allotment of the land called Bogahawatta alias Ambagahawatta, together with the buildings standing thereon marked A in plan No. 2,126 dated December 8, 1926, made by A. Daniel, Licensed Surveyor, situated at Nawala in the Palle pattu of Salpiti korale in the District of Colombo, Western Province; and bounded on the north by the road to Welikada and a path, on the east by Ambagahawatta of C. Don Bastian and others, on the south by lot B, and on the west by Bogahawatta of Ratnayake Vedarala; containing in extent 3 roods and 2½ perches.

Fiscal's Office,
Colombo, December 15, 1937.

J. R. TOUSSAINT,
Deputy Fiscal.

In the District Court of Negombo.

Nawanna Sona Sokkalingam Chettiar, by his attorney
Suna Pana Kama Nana Narayanan Chettiar of
Colombo Plaintiff.
No. 8,662. Vs.

(1) Lionel Jayakody of Balagalla as beneficiary and one of the executors of the last will and testament of the late Jayakody Aratchige Charles Jayakody, and (2) Damunupola Appuhamillage Don Ginadasa Jayawardena, Apothecary in charge of Civil Hospital, Kegalla, the other executor of the said last will Defendants.

NOTICE is hereby given that on Saturday, January 22, 1938, commencing at 3.30 in the afternoon, will be sold by public auction at the respective premises the following property ordered to be sold, viz. :-

1. All that land called Batadombughawatta, situated at Divulapitiya in Dasiya pattu of the Alutkuru korale in the District of Negombo, Western Province; bounded on the north-east by the field belonging to Don Migel Appuhamy, south-east by the high road, south-west by the land formerly of Jeelis Appu and now of Pavulu Appuhamy and the lands of Bastian Fernando, and on the north-west by the embankment, elawella (water-course); containing in extent 3 roods and 26.4 perches, together with the buildings and plantations standing thereon and registered under C 216/325, but the said land is otherwise described as Batadombughawatta, situated at Divulapitiya aforesaid; and bounded on the north by the field of Don Migel Appuhamy, east by the high road, south by the property of Jeelis Appu purchased by Paulu Appuhamy and the property of Bastian Appuhamy, and west by elawella; and containing in extent 1 acre and 1 rood, and registered under C 261/129.

2. All that portion of the field called Millagahakumbura, situated at Divulapitiya aforesaid; bounded on the north by land sold by Government, east by high road, south by garden of Don Migel and others, and west by water-course; containing in extent about 6 kurunies of paddy sowing ground and all the appurtenances thereof, and registered under C 261/130.

3. All that land comprised of two contiguous portions of Kahatagahalanda and a portion of Pattigewatta, situated at Divulapitiya aforesaid; bounded on the north and west by the ditch of the land of Soysa, south and east by the field of Selenchy Vederala and others; containing in extent about 5 acres, together with the buildings and plantations standing thereon, and registered under C 261/131.

4. All that land called Kelagahawatta, situated at Divulapitiya aforesaid; bounded on the north-west by garden of Tissavapathirenehelage Amaris, east by field of Wijelathpathirenehelage Samel, south by Crown land, and west by Crown land; containing in extent about 2 acres, together with the buildings and plantations standing thereon, and registered under C 261/132.

5. All that divided portion of the land called Pinnaladakele appearing in plan No. 3,336 drawn by Mr. Peter de Almeida, Licensed Surveyor, situated at Divulapitiya aforesaid; the said divided portion being bounded on the north by the portion of this land allotted to Don Siman Jalath Gunawardena, Police Headman, east by field, south by the portion of this land of K. Don Raphael Appuhamy, and west by the portion of this land of Don Costhanthinu Appuhamy; containing in extent 1 acre 3 roods and 15 perches, together with the buildings and plantations standing thereon, and registered under C 342/281.

The lands described under heading 1, 2, 3, 4, and 5 are subject to the life interest of Damunupola Appuhamillage Dona Sancha Jayawardena.

Amount to be levied Rs. 1,400 with interest at 15 per cent. per annum from October 15, 1933, till February 18, 1936, and thereafter at 12 per cent. per annum till payment in full and taxed costs Rs. 254.90 plus Rs. 8.40, less Rs. 340.

Deputy Fiscal's Office,
Negombo, December 13, 1937.

A. W. ROSA,
Deputy Fiscal.

28 In the Court of Requests of Colombo.

V. Nadarajan of Dean's road, Maradana,
Colombo Plaintiff.
No. 15,904. Vs.

(1) R. Sivagurunathan and (2) Mrs. A. Sivagurunathan, both of Colley House, Rosmead place, Cinnamon Gardens, Colombo Defendants.

NOTICE is hereby given that on Monday, January 31, 1938, at 4 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the

said 1st defendant in the following property for the recovery of Rs. 287.50, together with legal interest thereon from October 14, 1935, till payment in full and costs of suit Rs. 57, viz. :—

All that allotment of land called Tudugalawatarana *alias* Triangalawatarana, situated at Tudugala in Iddagoda pattu of Pasdum korale west in the District of Kalutara, Western Province; and bounded on the north by the land belonging to the Crown, on the north-east, east, and south-east by Eriangala-ela, a Crown land and land claimed by natives, on the south by the land belonging to the Crown and Triangallo-ela, and on the south-west, west, and north-west by land belonging to the Crown; in extent 107 acres 2 roods and 36 perches as per plan No. 5,526 dated September 14, 1861, made by D.A. Ewatt, Surveyor-General.

Deputy Fiscal's Office,
Kalutara, December 8, 1937.

H. SAMERESINGHA,
Deputy Fiscal.

Central Province.

In the District Court of Kandy.

M. P. M. Narayanan Chettiyar, by his attorney Kana Roona Kodayappon of Ambegannuwa road, Gampola Plaintiff.
No. 46, 195. Vs.

D. Ukkuwa of Ampitiya in Dolosbage Defendant.

NOTICE is hereby given that on Monday, January 17, 1938, commencing at 2 noon, 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 the balance sum of Rs. 119.31, with interest on Rs. 315 at 18 per cent. per annum from February 7, 1935, up to March 19, 1935, and thereafter legal interest on the aggregate amount till payment in full and poundage, viz. :—

(1) Undivided 2/9th parts or shares of all that field called Kohanliyadde of 7 pels in paddy sowing extent, situate at Ampitiya, Dolosbage, in Ganga Ihala korale, Udapalata, in the District of Kandy, Central Province; and bounded on the north by ela, east by the high land and the high road, south by the limit of Mosswillia estate, and west by Ruwankuriyoa.

(2) All that land called Panwatta of 1 pela in paddy sowing extent, situate at Ampitiya aforesaid; and bounded on the east and south by Creighead estate, west and north by Mala-ela of Rankira's land, with the building and everything standing thereon.

Fiscal's Office,
Kandy, December 7, 1937.

H. C. WIJESINHA,
Deputy Fiscal.

Southern Province.

In the District Court of Galle.

Rannula Jandoris of Seenigama Plaintiff.
No. 32,849. Vs.

(22) Induruwege Bastian de Silva of Seenigama and others Defendants.

NOTICE is hereby given that on Tuesday, January 11, 1938, commencing at 2 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said 2nd, 3rd, 24th, 25th, and 26th defendants in the following property, viz. :—

1. All that the soil and trees and buildings standing thereon of lot No. 1 of the land called Seenigama Kerowa, situated at Seenigama in Wellaboda pattu of the District of Galle, Southern Province; and bounded on the north by road, east by Railway premises, south by lot No. 3, west by the land appearing in T. P. 109,614, and in extent 2 roods and 12 perches.

2. All that the soil and trees and buildings standing thereon of the land called lot No. 2 of Seenigama Kerowa, situated at Seenigama aforesaid; and bounded on the north by road, east by Crown land, south by lot No. 4 of the same land, west by Railway premises; and containing in extent 2 roods and 15 perches.

3. All that the soil and trees and buildings standing thereon of the land called lot No. 3 of Seenigama Kerowa, situated at Seenigama aforesaid; and bounded on the north by lot No. 1, east by Railway premises, south by Crown land, and west by the land appearing in T. P. 109,614; in extent 2 roods and 12 perches.

4. All that the soil and trees and buildings standing thereon of the land called lot No. 4 of Seenigama Kerowa, situated at Seenigama aforesaid; and bounded on the north by lot No. 2 of the same land, east by Crown land, south by Seenigama Kerowa, and west by Railway premises; and in extent 2 roods and 15 perches.

Writ amount Rs. 199.50.

Fiscal's Office,
Galle, December 10, 1937.

T. D. S. DHARMASENA,
Deputy Fiscal.

Eastern Province.

In the District Court of Trincomalee.

Annapillai, wife of Thamotherampillai of Division No. 6, Trincomalee Plaintiff.

No. 2,079. Vs.

Sinnathamby Meydeenbawa of Division No. 4, Trincomalee (dead) Defendant.

Sathakkumeydeen Seenthambay of Division No. 4, Trincomalee, legal representative of Meydeenbawa Substituted Defendant.

NOTICE is hereby given that on Saturday, January 8, 1938, at 10 o'clock in the forenoon, will be sold by public auction at the spot the following property mortgaged to the plaintiff by bond No. 1,012 dated September 29, 1929, and attested by Mr. D. Rajaratnam of Trincomalee, Notary Public, and declared specially bound and executable under the decree entered in the above case and ordered to be sold by the order of court dated April 17, 1937, for the recovery of the sum of Rs. 700, with interest thereon at 9 per cent. per annum from August 31, 1935, till payment in full and costs Rs. 182.66, Fiscal's fees and charges and poundage, viz. :—

All that piece of land called and known as Karakadai-kadu bearing lot No. 4185, situated at Nilaveli in Kaddukulampattu, Trincomalee District, Eastern Province, together with the coconut trees standing thereon and all other rights relating thereto; bounded on the north by land of A. Alvapillai, east by land reserved for road, south by land of Sellathurai Muttucumaruru and others, and west by lands described in plans Nos. 167,846 and 156,656; in extent 6 acres 3 roods and 34 perches. Registered C 4/337.

Deputy Fiscal's Office,
Trincomalee, December 8, 1937.

B. VRASPILLAI,

Additional Deputy Fiscal.

North-Western Province.

In the District Court of Kurunegala.

Perigo Haramanis Perera of Delwagura in Dunagaha pattu, Alutkuru korale Plaintiff.

No. 14,150. Vs.

(1) Perigo Davith Singho Perera, (2) Podisingho *alias* Arnolis Perera, (3) Misiyanona Perera, all of Delwagura aforesaid Defendants.

NOTICE is hereby given that on Saturday, January 15, 1938, commencing from the 1st land at 11 o'clock in the forenoon, will be sold by public auction at the respective premises the right, title, and interest of the said plaintiff and the 3rd defendant in the following property for the recovery of the sum of Rs. 139 from the plaintiff (less Rs. 70) and Rs. 377 from the 3rd defendant and poundage, viz. :—

1. All that divided portion marked lot B 1 of 9 acres and 26 perches in extent as per plan No. 4,285r dated October 16, 1935, made by Mr. J. C. Fernando, Licensed Surveyor, from and out of the five allotments of lands being contiguous to each other called Horagasagare Ihalakumbura, Mora-kelemukalana, Horagaha-agarekumbura, Talgahapurane-kumbura, and Delgahakumbura, being lots K 254, T 254, M 254, J 254, and L 254 in T. P. No. 158,277, situated at Madelgomuwa in Pitigal korale in Katugampola hatpattu in the District of Kurunegala, North-Western Province; and which said lot B 1 is bounded on the north by lot A of this land, east by lot B 2 of this land, south by lands of W. A. Thelenis Appuhamy and W. A. Punchappuhamy, west by lots C 1, C 2, C 3, C 4, and C 5 of this land (kumbura) and field of W. A. Hendrick Singho Appuhamy.

2. All that divided portion marked lot C 1 of 1 rood and 31.8 perches in extent as per said plan No. 4,285r from and out of the above-mentioned contiguous allotments of lands, situated at Madelgomuwa aforesaid; and which said lot C 1 is bounded on the north by lot A of this land, east by lot B 1 of this land, south by lot C 2 of this land, and west by land of W. A. Hendrick Singho Appuhamy.

3. The divided portion marked lot B 5 of 1/2 acres and 26 perches in extent as per said plan No. 4,285r from and out of the above-mentioned contiguous allotments of lands, situated at Madelgomuwa aforesaid; and which said lot B 5 is bounded on the north by lot A of this land, east by land of K. Don Carolis Appuhamy and others, south by land of W. A. Marthelis Appuhamy and others, west by lot B 4 of this land.

4. The divided portion marked lot C 5 of 1 rood and 31.8 perches in extent as per said plan No. 4,285r from and out of the above-mentioned contiguous allotments of lands situated at Madelgomuwa aforesaid; and which said lot C 5 is bounded on the north by lot C 4 of this land, east by lot B 1 of this land, south by field of W. A. Hendrick Singho Appuhamy, and west by land of W. A. Hendrick Singho Appuhamy.

G. J. PERERA, Additional Deputy Fiscal. Fiscal's Office, Kurunegala, December 13, 1937.

NOTICES IN TESTAMENTARY ACTIONS.

In the District Court of Colombo.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Last Will and Testament of Agnes Samson Gordon, some time of 19, Highburgh road, Downhill, Glasgow W. 2, and late of 21, Hector road, Glasgow, deceased.

No. 8,231. Francis Gebbie Andrew of Messrs. Hunter & Company, Colombo. Petitioner.

THIS matter coming on for disposal before M. W. H. de Silva, Esq., District Judge of Colombo, on November 8, 1937, in the presence of Mr. John Wilson, Proctor, on the part of the petitioner above named; and the affidavits (1) of the said petitioner dated November 5, 1937, (2) a certified copy of the last will and testament of the above-named deceased under the Common Seal of the Sheriff Court of Lanarkshire, (3) a certified copy of confirmation under the Seal of the Sheriff Court of Lanarkshire, (4) power of attorney dated August 20, 1937, in favour of the petitioner, and (5) the order of the Supreme Court dated October 25, 1937, having been read:

It is ordered that the last will of Agnes Samson Gordon, deceased, of which a certified copy has been produced and is now deposited in the court, be and the same is hereby declared proved; and it is further declared that the said petitioner is the attorney of the executor under the said will and that he is entitled to have letters of administration with a copy of the said will annexed issued to him accordingly, unless any person or persons interested shall, on or before December 9, 1937, show sufficient cause to the satisfaction of this court to the contrary.

November 8, 1937. M. W. H. DE SILVA, District Judge.

The date for showing cause is extended to January 27, 1938.

December 9, 1937. M. W. H. DE SILVA, District Judge.

In the District Court of Colombo.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Last Will and Testament of Bodhiabaduge Carolis Perera of Sri Mahal, Vajira road, Colombo, deceased.

No. 8,250. Kurukulasuriya Patabaduge Sarah Silva alias Sarah Perera of Sri Mahal, Vajira road, Colombo. Petitioner.

(1) Bodhiabaduge Somiliya Piyawathie de Silva, (2) ditto Kamalawathie Thassie Perera, (3) ditto Pemie Chandrawathie Perera, (4) ditto Pmsier Greetawansa Perera, and (5) ditto Sshantawathie Perera. Respondents.

THIS matter coming on for disposal before M. W. H. de Silva, Esq., District Judge of Colombo, on November 26, 1937, in the presence of Messrs. De Silva & Mendis, Proctors,

on the part of the petitioner above named; and the affidavits (1) of the said petitioner dated October 30, 1937, and (2) of one of the attesting witnesses dated October 9, 1937, having been read:

It is ordered that the last will of Bodhiabaduge Carolis Perera, 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 is the executrix named in the said will and that she is entitled to have probate thereof issued to her accordingly, unless the respondents above named or any other person or persons interested shall, on or before January 27, 1938, show sufficient cause to the satisfaction of this court to the contrary.

November 26, 1937. M. W. H. DE SILVA, District Judge.

In the District Court of Avissawella.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Estate of the late Howawasam Puwakpitiyage Podisingho of Kaluaggala, deceased.

No. 257. Colombo: No. 7,970. Hewawasam Puwakpitiyage John Singho of Elamalawala in Kaluaggala. Petitioner.

(1) Halpage Podinona of Kaluaggala, (2) Hewawasam Puwakpitiyage Thomas of Elamalawala, (3) ditto Aronoff Kurudegala, (4) ditto Jane Nona of Lunugama of Siyahakorale, (5) ditto Baby Nona of Kaluaggala, (6) ditto Charles of ditto; 5th and 6th respondents being minors by their guardian ad litem the 1st respondent. Respondents.

THIS matter coming on for disposal before J. Wilmot Perera, Esq., District Judge of Avissawella, on May 18, 1937, in the presence of Messrs. de Silva & de Silva, Proctors, on the part of the petitioner; and the affidavit of the said petitioner dated April 19, 1937, having been read:

It is ordered that the said petitioner be and he is hereby declared entitled, as the son of the above-named deceased, to have letters of administration to the said estate issued to him accordingly, unless the respondents above named or any other person or persons interested shall, on or before August 3, 1937, show sufficient cause to the satisfaction of this court to the contrary. It is further ordered that the 1st respondent be appointed guardian ad litem over the minors, 5th and 6th respondents, for the purpose of this testamentary action, unless the respondents above named or any other person or persons interested shall, on or before August 3, 1937, show sufficient cause to the contrary.

July 14, 1937. J. WILMOT PERERA, District Judge.

The above Order Nisi is extended for December 21, 1937.

December 7, 1937. J. WILMOT PERERA, District Judge.

In the District Court of Negombo.

Order Nisi.

Testamentary Jurisdiction. In the Matter of the Intestate Estate of the late James David Salgadoe of Kurana Katunayaka, deceased.

No. 3,054. Between James Sextus Salgadoe of Kurana Katunayaka. Petitioner.

(1) Henry Peter Salgadoe, (2) Quintus Alberts Salgadoe, (3) Emily Felicitia Perera, (4) Dulcie Isabelle Salgadoe, (5) Patricia Constance Salgadoe, (6) Virginia Stella Perera, (7) Marian Francisca Salgadoe, (8) Felicia Constance Salgadoe, all of Kurana Katunayaka. Respondents.

THIS matter coming on for disposal before T. Weeraratne, Esq., District Judge of Negombo, on November 5, 1937, in the presence of Mr. A. L. P. de Silva, Proctor, on the part of the petitioner; and the petition and affidavit of the said petitioner dated November 4, 1937, having been read:

It is ordered that the petitioner be and he is hereby declared entitled, as a son of the above-named deceased, to have letters of administration to his estate issued to

him accordingly, unless the respondents above named or any other person or persons interested shall, on or before November 30, 1937, show sufficient cause to the satisfaction of this court to the contrary.

November 5, 1937.

Extended to December 21, 1937.

T. WEERARATNE,
District Judge.

T. WEERARATNE,
District Judge.

30 In the District Court of Negombo.
Order Nisi.

Testamentary In the Matter of the Intestate Estate of
Jurisdiction. the late Ranamukadewage William
No. 3,055. Fernando of Yagodamulla, deceased.

Between
Ranamukadewage Jiradasa of Yagoda-
mulla Petitioner.

And
(1) Esselladewage Manu Nona, (2) Ranamukadewage
Grace Fernando, (3) ditto Lewis Fernando, all of
Yagodamulla Respondents.

THIS matter coming on for disposal before T. Weera-
ratne, Esq., District Judge of Negombo, on November 26,
1937, in the presence of Mr. A. E. Rosa, Proctor, on the
part of the petitioner; and the petition and affidavit of the
said petitioner dated November 26, 1937, having been read:

It is ordered (a) that the 3rd respondent above named be
and he is hereby appointed guardian *ad litem* of the 2nd
respondent above named, who is a minor, to represent her
for all the purposes of this action, and (b) that the said
petitioner be and he is hereby declared entitled, as the
cousin of the above named deceased, to have letters of
administration to his estate issued to him accordingly,
unless the respondents above named or any other person or
persons interested shall, on or before December 20, 1937,
show sufficient cause to the satisfaction of this court to the
contrary.

November 26, 1937.

T. WEERARATNE,
District Judge.

27 In the District Court of Kandy.
Order Nisi declaring Will proved, &c.

Testamentary In the Matter of the Last Will and Testa-
Jurisdiction. ment and Codicil of Harry Charles Purvis
No. T 8. Bell, deceased, of Kandy.

THIS matter coming on for disposal before Reginald
Felix Dias, Esq., District Judge Kandy, on December 7,
1937, in the presence of Messrs. Mesching & Lee, Proctors,
on the part of the petitioner, and of Mr. H. D. Ratnatunga,
Proctor, on the part of the respondents; and the affidavit of the
said petitioner dated December 2, 1937, and of the attesting notary dated November 27, 1937,
having been read:

It is ordered that the last will and codicil of the
above-named deceased dated April 29, 1935, and January
13, 1937, respectively and now deposited in this court, be
and the same is hereby declared proved, unless any person
or persons interested shall, on or before January 20, 1938,
show sufficient cause to the satisfaction of this court to the
contrary.

It is further declared that the said petitioner is the
executrix named in the said will and that she is entitled to
have probate of the same issued to her accordingly, 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.

December 7, 1937.

R. F. DIAS,
District Judge.

29 In the District Court of Galle.
Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Abdul Cader Hauwa. Umma of Fort,
No. 7,464. Galle, deceased.

Between
L. B. Casper, Secretary of the District Court of Galle,
as official administrator of the estate of Ellen
Margaret Wijesooriya, appointed in testamentary
case No. 7,362, D. C., Galle Petitioner.

And
(1) Sheik Hallaji Pathumma of Fort, Galle, (2) Sego
Maricar Seynambu Natchia of Fort, Galle, (3) A. C. A.
Ismail of Shepperd's Hotel, Cairo, Egypt, (4) Periya
Thambi Hadjar Mohamad of Talapitiya road,
Galle Respondents.

THIS matter coming on for disposal before N. M.
Bharucha, Esq., District Judge of Galle, on November 30,

1937, in the presence of C. L. & M. L. N. Wickremasingh
Proctors, on the part of the petitioner above named; and
the affidavit of Hikkaduwe Liyanage Simon de Silva,
Gintota, dated November 26, 1937, having been read:

It is further declared that the said petitioner is entitle
to have letters of administration *de bonis non* issued to hi
accordingly, unless the said 1st respondent is prepared t
take out letters of administration on or before December 2
1937.

November 30, 1937.

N. M. BHARUCHA,
District Judge.

39 In the District Court of Tangalla.
Order Nisi declaring Will proved.

Testamentary In the Matter of the Last Will and Teste
Jurisdiction. ment of Kirimadinage Nonisappu, de
No. 1,269. ceased, of Udayala.

Kendala Vidana Patiranaige Sarnelis, Vel-Vidane of
Udayala Petitioner

(1) Parana Palliyegunne Buinona, minor, (2) Parana
Palliyegunne Mendis, both of Medaviyangoda in
Matara Respondents

THIS matter coming on for disposal before W. Olega-
sagrem, Esq., District Judge of Tangalla, on November 24
1937, in the presence of Mr. L. G. Poulier, Proctor, on th
part of the petitioner and of Mr. H. D. Ratnatunga, Proctor
on the part of the 2nd respondent; and the affidavit of th
petitioner dated November 4, 1937, having been read
and the evidence of witnesses to the last will bearing
No. 10,727 dated August 23, 1929, taken:

It is ordered that the said last will and testament of th
aforesaid deceased dated August 23, 1929, be and the sam
is hereby declared proved, unless the aforesaid respondent
or any person or persons interested in the said estate shal
on or before December 23, 1937, show sufficient cause t
the satisfaction of this court to the contrary.

It is further ordered that the said petitioner is th
executor named in the said will and that he is entitled t
have probate of the same issued to him accordingly, unles
the respondents or any person or persons interested shal
on or before December 23, 1937, show sufficient cause to th
satisfaction of this court to the contrary.

It is further ordered that the said 2nd respondent b
appointed guardian *ad litem* over the 1st respondent, who i
a minor, unless the respondents or any person or person
interested shall, on or before December 23, 1937, sho
sufficient cause to the satisfaction of the court to th
contrary.

November 24, 1937.

W. OLEGASAGREM,
District Judge.

28 In the District Court of Jaffna (held at Point Pedro).
Order Nisi.

Testamentary In the Matter of the Estate of the lat
Jurisdiction. Alvappillai Kandiah of Puloly South
No. 31. deceased.

Theivanaippillai, widow of Alvappillai of Puloly
South Petitioner

(1) Aththappillai widow of Kandiah of Karanavai
North, (2) Pallippilla alias Thangammah, wife of
Ponniah of Puloly South, (3) Alvappillai Ponniah of
Puloly South, (4) Sivakolunthu, wife of Kadiri-
thamby of ditto, (5) Murugesar Kadirithamby of
ditto, (6) Annammah, wife of Subramaniam of ditto,
(7) Murugesar Subramaniam of ditto Respondent

THIS matter coming on for disposal before S. Rodrig
Esq., Additional District Judge, on October 28, 1937, in th
presence of Mr. K. Muttukumaru, Proctor, on the part
the petitioner; and the petition and affidavit of th
petitioner having been read:

It is hereby ordered that the petitioner be and she
hereby declared entitled to take out letters of administr
tion to the above estate, as the mother of the decease

and that letters of administration be issued to her accordingly, unless the respondents above named appear and show cause to the contrary on or before December 23, 1937.

November 12, 1937. S. RODRIGO,
Additional District Judge.

27 In the District Court of Jaffna.
Order Nisi.

Testamentary In the Matter of the Estate of the late
Jurisdiction. Jane Gnanamani Thaiyalnayagam, wife
No. 466. of Ariyathurai Solomons, deceased.

Walter Ariyathurai Solomons of Jaffna, presently of
Colombo Petitioner.

(1) Wesley Duraisami Niles and (2) Daniel Thambi-
raja Niles, both of Jaffna Respondents.

THIS matter of the petition of the above-named petitioner, praying for letters of administration to the estate of the above-named deceased, Jane Gnanamani Thaiyalnayagam, coming on for disposal before C. Coomaraswamy, Esq., District Judge, Jaffna, on July 20, 1937, in the presence of Mr. C. A. Niles, Proctor, on the part of the petitioner; and the affidavit of the petitioner dated November 12, 1936, having been read: It is ordered that the petitioner is the husband of the said intestate and is entitled to have letters of administration to the estate of the said intestate issued to him, unless the respondents or any other person shall, on or before September 1, 1937, show sufficient cause to the satisfaction of this court to the contrary.

July 26, 1937. C. COOMARASWAMY,
Extended for December 20, 1937. District Judge.

36 In the District Court of Puttalam.
Order Nisi.

Testamentary In the Matter of the Last Will and Testa-
No. 727. ment of Muttu Marikar Meera Saibu
Marikar of Karatheevu, deceased.

Rs. 16. 29. 16. 29. Between
Meera Saibu Marikar Muhammad Haniffa of Kara-
theevu Petitioner.
Vs.

(1) Uthuma Natchiya, widow of Muttu Marikar Meera Saibu Marikar, (2) Meera Saibu Marikar Sahul Hameedu, (3) Muhammad Cassim Seka Marikar, (4) Meera Saibu Marikar Maimoon Umma, wife of Uthuma Levvai Marikar, (5) Meera Saibu Marikar Sulaiha Umma, wife of Awlia Meera Levvai, (6) Meera Saibu Marikar Asiya Umma, wife of Maguthu Naina, all of Karatheevu Respondents.

THIS matter coming on for disposal before M. A. Samarakoon, Esq., District Judge of Puttalam, on November 20, 1937, in the presence of Mr. H. S. Ismail, Proctor, on the part of the petitioner; and the petition and affidavit of the petitioner, both dated November 20, 1937; and the affidavit of the witnesses to the last will of the said deceased dated September 20, 1937, having been read: It is ordered that the will of Muttu Marikar Meera Saibu Marikar, deceased, dated October 31, 1927, and now deposited in this court, be and the same is hereby declared proved; it is further declared that the petitioner above named be appointed administrator of the estate of the said deceased and that letters of administration with the will annexed be issued to him accordingly, unless the respondents above named or any other person or persons interested in the matter of this application shall, on or before December 20, 1937, show sufficient cause to the contrary.

November 20, 1937. M. A. SAMARAKOON,
District Judge.

PASSED ORDINANCES.

Ordinance enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof.

No. 25 of 1937.

81/10/2 (S.B.)

An Ordinance to amend the Heavy Oil Motor Vehicles Taxation Ordinance, No. 56 of 1935.

A. CALDECOTT.

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

1 This Ordinance may be cited as the Heavy Oil Motor Vehicles Taxation (Amendment) Ordinance, No. 25 of 1937, and shall come into operation on the first day of January, 1938.

Short title and date of operation.

2 The First Schedule to the Heavy Oil Motor Vehicles Taxation Ordinance, No. 56 of 1935, is hereby repealed and the following Schedule is substituted therefor:—

Repeal of First Schedule to Ordinance No. 56 of 1935, and substitution of a new Schedule therefor.

FIRST SCHEDULE.

(Section 2.)

Tax payable in respect of heavy oil motor vehicles.

Description of Vehicle.	Tax (monthly rate),	
	Rs.	c.
Where the tare of the heavy oil motor vehicle—		
(a) does not exceed 1 ton ..	63	25
(b) exceeds 1 ton but does not exceed 1½ tons ..	69	0
(c) ,, 1½ tons ,, 2 ,, ..	74	75
(d) ,, 2 ,, ,, 2½ ,, ..	80	50
(e) ,, 2½ ,, ,, 3 ,, ..	86	25
(f) ,, 3 ,, ,, 3½ ,, ..	92	0
(g) ,, 3½ ,, ,, 4 ,, ..	103	50
(h) ,, 4 ,, ,, 4½ ,, ..	115	0
(i) ,, 4½ ,, ,, 5 ,, ..	126	50
(j) ,, 5 tons ..	138	0

Passed in Council the Eighth day of December, One thousand Nine hundred and Thirty-seven.

E. W. KANNANGARA,
Clerk of the Council.

Assented to by His Excellency the Governor the Fourteenth day of December, One thousand Nine hundred and Thirty-seven.

E. R. SUDBURY,
Secretary to the Governor.

DRAFT ORDINANCES.

(Continued from page 1261.)

MINUTE.

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

An Ordinance to provide for the Control of the Export of Tea from Ceylon and for the Control of the Production of Tea in Ceylon in certain circumstances.

TABLE OF SECTIONS.

Section.	
1.	Short title and date of operation.
2.	Appointment of Controller and other officers.
3.	Delegation of Controller's powers.
4.	Establishment and constitution of Tea Advisory Board.
5.	Duties, powers and functions of Tea Advisory Board.
6.	Establishment and constitution of Board of Appeal.
7.	Duties, powers and functions of Board of Appeal.
8.	Returns.
9.	Registers.
10.	Decision of questions relating to registers.
11.	Registration of proprietors and their addresses.
12.	Standard Crop of estates.
13.	Standard crop of small holdings.
14.	Notification of assessment.
15.	Adjustment of errors in assessment of standard crop.
16.	Ceylon quota of export.
17.	Exportable maximum.
18.	Percentage of reduction and percentage of appreciation.
19.	Determination and notification of the exportable maximum.
20.	Tea coupons.
21.	Export licences.
22.	Special export licences in period of assessment 1938-1939.
23.	Special export licences in subsequent periods of assessment.
24.	Transfer or sale of special export licences.
25.	Prohibition of export of made tea except under licence.
26.	Prohibition of export of tea seed, &c.
27.	Prohibition against planting new areas subject to certain exceptions.
28.	Certain cases in which planting of new areas permitted.
29.	Replanting.
30.	Planting or maintenance of nurseries.
31.	Filling or supplying of vacancies.
32.	Power of Controller to call for information.
33.	Right to enter estates, &c., for inspection.
34.	Control of production of tea.
35.	Offences.
36.	Tea Control Fund.
37.	Expenditure from Tea Control Fund.
38.	Estimates of income and expenditure.
39.	Protection of officers.
40.	Service of notices, &c.
41.	Returns to be verified by statutory declaration.
42.	Regulations.
43.	Saving of Rules made under Ordinance No. 11 of 1933.
44.	Estates or small holdings in one ownership.
45.	Power of Executive Committee to give directions to mitigate or prevent hardship in certain cases.
46.	Interpretation.
47.	Duration of Ordinance.

An Ordinance to provide for the Control of the Export of Tea from Ceylon and for the Control of the Production of Tea in Ceylon in certain circumstances.

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

Short title and date of operation.

1 This Ordinance may be cited as the Tea Control Ordinance, No. of 1938, and shall come into operation on the first day of April, 1938.

Appointment of Controller and other officers.

2 (1) The Governor may appoint—
 (a) any person, by name or by office, to be or to act as Tea Controller;
 (b) any person, by name or by office, to be or to act as Deputy Tea Controller;
 (c) any person, by name or by office, to be or to act as an Assistant Tea Controller; and
 (d) such other officers and servants as may from time to time be required for the purposes of this Ordinance.

(2) In the exercise of his powers and in the discharge of his duties under this Ordinance, the Controller shall be subject to the general direction and control of the Executive Committee.

(3) All persons, officers and servants exercising powers or discharging duties under this Ordinance shall be deemed to be public servants within the meaning of the Ceylon Penal Code.

(4) The persons appointed under section 3 of the Tea (Control of Export) Ordinance, No. 11 of 1933, to be or to act as Tea Export Controller and Deputy Tea Export Controller, and holding office on the thirty-first day of March, 1938, shall continue in office as if they were respectively appointed Tea Controller and Deputy Tea Controller, under this Ordinance.

(5) All persons, officers and servants (other than those mentioned in sub-section (4)) appointed under section 3 of the Tea (Control of Export) Ordinance, No. 11 of 1933, who are in office on the thirty-first day of March, 1938, shall continue in office as if they were appointed under this Ordinance.

3 In relation to any particular matters or class of matters or to any particular province or planting district, the Controller may, with the consent of the Executive Committee, by writing under his hand, delegate any of his powers under this Ordinance (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or to the province or planting district defined in the instrument of delegation.

Delegation of Controller's powers.

4 (1) There shall be established by the Governor a Tea Advisory Board which shall consist of a Chairman, who shall be the Controller for the time being and such other members, not exceeding six in number, as the Governor may appoint, two of whom shall be appointed to represent small holders.

Establishment and constitution of Tea Advisory Board.

(2) The Tea Advisory Board established under section 5 of the Tea (Control of Export) Ordinance, No. 11 of 1933, shall, as constituted on the thirty-first day of March, 1938, continue as if it were established under this section.

5 (1) It shall be the duty of the Board—

- (a) to advise the Controller on all matters incidental or relating to the control and regulation under this Ordinance of the export of tea from Ceylon and on all other matters which he may refer to the Board for advice ; and
- (b) to perform and exercise such duties and powers as may be prescribed or entrusted to it under this Ordinance.

Duties, powers and functions of Tea Advisory Board.

(2) (a) Regulations may be made providing for the conduct of the business of the Board and prescribing the procedure to be followed at meetings of the Board.

(b) Subject to any such regulations, the Board may regulate its own procedure.

6 (1) There shall be established by the Governor a Board of Appeal which shall consist of three members one of whom at least shall be an advocate or proctor of the Supreme Court of not less than ten years' standing, all of whom shall be appointed by the Governor.

Establishment and constitution of Board of Appeal.

(2) The Board of Appeal established under the Tea (Control of Export) Ordinance, No. 11 of 1933, shall, as constituted on the thirty-first day of March, 1938, continue as if it were established under this section.

7 (1) It shall be the duty of the Board of Appeal to hear and determine all appeals preferred to that Board under the provisions of this Ordinance, and all appeals preferred to the Board of Appeal established under the Tea (Control of Export) Ordinance, No. 11 of 1933, which have not been disposed of by that Board prior to the first day of April, 1938.

Duties, powers and functions of Board of Appeal.

(2) Regulations may be made prescribing—

- (a) the time within which and the manner in which appeals shall be so preferred ;
- (b) the forms to be used and the fees to be paid in preferring appeals ;
- (c) the procedure to be observed at the hearing of appeals ;
- (d) the remuneration to be paid to members of the Board of Appeal ;
- (e) generally for all matters connected with or incidental to the matters specially enumerated in this sub-section or to the hearing or disposal of appeals.

(3) The decision of the Board of Appeal on any matter or question brought before it by way of appeal shall be final and conclusive for the purposes of this Ordinance.

Returns.

8 (1) On or before the prescribed date in the period of assessment commencing on the first day of April, 1938, the proprietor of every land planted with tea on the thirty-first day of March, 1938, which has not been registered as an estate or small holding under the Tea (Control of Export) Ordinance, No. 11 of 1933, shall furnish to the Controller a return in the prescribed form containing the prescribed particulars.

(2) Every person who after the thirty-first day of March, 1938, is permitted or granted authority to plant any tea in accordance with the provisions of section 27 (1) (c) or of section 28, shall, within the prescribed period, furnish to the Controller a return in the prescribed form containing the prescribed particulars.

(3) The Controller may, at any time, in any period of assessment, require any person who is registered as the proprietor of any estate or small holding or of any part of any estate or small holding or any person claiming to be registered as such proprietor to furnish a return in the prescribed form containing the prescribed particulars.

(4) No land which was not registered as an estate or small holding under the Tea (Control of Export) Ordinance, No. 11 of 1933, shall be registered under this Ordinance, unless and until a return has been duly furnished under this section in respect of that land.

Registers.

9 (1) The Controller shall keep a register of estates and small holdings in the prescribed form :

Provided that the Controller may continue to keep any register duly kept by him or by a Government Agent under section 10 of the Tea (Control of Export) Ordinance, No. 11 of 1933, and any such register shall be deemed to have been kept under this section.

(2) Regulations may be made—

(a) requiring registered proprietors of estates and small holdings to notify to the Controller the occurrence of any circumstance affecting the accuracy of any particulars contained in any return furnished under the Tea (Control of Export) Ordinance, No. 11 of 1933, or under this Ordinance ; and

(b) Prescribing the circumstances and the manner in which any entry made in the register may be amended or rectified from time to time.

(3) In the event of the death of the registered proprietor of any estate or small holding, it shall be the duty of the person entering into possession or having control of that estate or small holding or having charge of the business of that proprietor—

(a) to give written information of the death to the Controller within one month thereof ; and

(b) to comply with the requirements of any regulation made under sub-section (2), until the name of the deceased proprietor is deleted and the name of the person entitled to be registered is duly substituted in the register.

Decision of questions relating to registers.

10 (1) The Controller shall decide—

(a) whether any land is an estate or small holding and whether it is entitled to be registered as such ;

(b) whether any estate or small holding is entitled to be registered in any particular planting district.

(2) An appeal shall lie to the Board of Appeal against any decision made by the Controller under sub-section (1).

Registration of proprietors and their addresses.

11 (1) The forms prescribed for the registers kept under section 9 shall provide for the registration of the proprietor of each estate or small holding and for the registration of the address of each such proprietor.

(2) If any question arises as to whether any person is entitled to be registered as the proprietor of an estate or small holding such question shall be decided by the Controller.

(3) An appeal shall lie to the Board of Appeal against any decision of the Controller made under sub-section (2).

(4) No decision of the Controller under sub-section (2) or of the Board of Appeal under sub-section (3) shall operate as *res adjudicata* on any question in any civil action in which the title to a registered estate or small holding shall be put in issue.

12 (1) Subject to the provisions of sub-sections (2) and (3), the standard crop of any registered estate for the period of assessment commencing on the first day of April, 1938, and for every subsequent period of assessment shall, if that estate was registered under the provisions of the Tea (Control of Export) Ordinance, No. 11 of 1933, be the standard crop of that estate for the period of assessment under that Ordinance commencing on the first day of April, 1937, as determined under the provisions of that Ordinance, increased by an allowance for the immature areas of that estate computed in the manner prescribed.

Standard crop
of estates.

(2) (a) Where, on or before the prescribed date in the period of assessment commencing on the first day of April, 1938, the registered proprietor of any estate applies to the Controller in writing requesting that the standard crop of that estate should be specially re-assessed the Controller shall, on payment of the prescribed fee, assess the standard crop of that estate for the period of assessment commencing on the first day of April, 1938.

(b) Such assessment shall be based on the quantity of made tea which could, on the first day of April, 1933, reasonably have been estimated to be the annual output from an acre of the mature areas of that estate, increased by an allowance for the immature areas of that estate computed in the manner prescribed :

Provided, however, that where the standard crop of any estate, or portion thereof, was first assessed for the purposes of the Tea (Control of Export) Ordinance, No. 11 of 1933, on a date subsequent to the thirty-first day of March, 1934, such assessment shall be based on the quantity of made tea which could, at the time when that estate or portion thereof was so first assessed, reasonably have been estimated to be the annual output from an acre of the mature areas of that estate or portion thereof, increased by an allowance for the immature areas of that estate or portion thereof computed in the manner prescribed.

(3) Where the Controller makes an assessment under sub-section (2) in respect of any estate, the standard crop of that estate—

(a) for the period of assessment commencing on the first day of April, 1938, shall be the standard crop as assessed under that sub-section ;

(b) for the period of assessment commencing on the first day of April, 1939, and for every subsequent period of assessment shall be the standard crop as assessed under that sub-section, increased by an allowance in respect of the immature areas of that estate computed in the manner prescribed.

The provisions of this sub-section shall have effect notwithstanding that the standard crop of any estate as assessed under sub-section (2) may be greater or less than the standard crop of that estate as determined in accordance with the provisions of sub-section (1).

(4) Where any estate which was not registered under the provisions of the Tea (Control of Export) Ordinance, 1933, is registered under this Ordinance, the Controller shall assess the standard crop of that estate for the period of assessment in which that estate is registered ; and such assessment shall be based on the quantity of made tea which could, at the time such assessment is made, reasonably be estimated to be the annual output from an acre of the mature areas of that estate, increased by an allowance for the immature areas of that estate computed in the manner prescribed :

Provided that if at the time of registration such estate does not comprise any mature areas such assessment shall be made at such time and in such manner as may be prescribed.

(5) Where the Controller makes an assessment under sub-section (4) in respect of any estate, the standard crop of that estate—

(a) for the period of assessment in which such assessment is made, shall be the standard crop as assessed under that sub-section ;

(b) for every subsequent period of assessment, shall be the standard crop as assessed under that sub-section, increased by an allowance in respect of the immature areas of that estate computed in the manner prescribed.

(6) Notwithstanding anything contained in this section, the standard crop for any period of assessment of the estate of the Tea Research Institute of Ceylon known as and hereinafter referred to as St. Coomb's Estate shall be the estimated yield thereof for that period.

Standard crop
of small
holdings.

13 (1) Subject to the provisions of sub-sections (2) and (3), the standard crop of any registered small holding for the period of assessment commencing on the first day of April, 1938, and for every subsequent period of assessment shall, if that small holding was registered under the provisions of the Tea (Control of Export) Ordinance, No. 11 of 1933, be the standard crop of that small holding for the period of assessment under that Ordinance commencing on the first day of April, 1937, as determined under the provisions of that Ordinance.

(2) Where any small holding which was not registered under the provisions of the Tea (Control of Export) Ordinance, No. 11 of 1933, is registered under this Ordinance, the standard crop of that small holding shall be assessed by the Controller according to such rate as may be prescribed for the planting district in which that small holding is situated.

(3) (a) Where on or before the prescribed date in the period of assessment commencing on the first day of April, 1938, the registered proprietor of any small holding applies to the Controller in writing requesting that the standard crop of that small holding should be specially re-assessed, the Controller shall, on payment of the prescribed fee, assess the standard crop of that small holding for the period of assessment commencing on the first day of April, 1938.

(b) Such assessment shall be based on the quantity of made tea which could, on the first day of April, 1938, reasonably have been estimated to be the annual output from an acre of the mature areas of that small holding; and such standard crop as so assessed shall be the standard crop of that small holding for the period of assessment commencing on the first day of April, 1938, and for every subsequent period of assessment:

Provided, however, that in no case shall the standard crop of any small holding as assessed under this sub-section be less than the standard crop of that small holding would be if it were determined in accordance with the provisions of sub-section (1) or sub-section (2).

Notification of
assessment.

14 Notice of every assessment of the standard crop of any estate made under sub-section (2) or sub-section (4) of section 12 and notice of every assessment of the standard crop of any small holding made under sub-section (2) or sub-section (3) of section 13 shall be served on the registered proprietor of that estate or small holding, as the case may be, who may, if dissatisfied with such assessment, appeal therefrom to the Board of Appeal.

Adjustment of
errors in
assessment of
standard crop.

15 (1) Notwithstanding the provisions of sections 12 and 13 or anything in the Tea (Control of Export) Ordinance, No. 11 of 1933, to the contrary, the Controller, if it appears to him at any time that an error has been made in the assessment of the standard crop of any estate or small holding in respect of any period of assessment, whether under the Tea (Control of Export) Ordinance, No. 11 of 1933, or under this Ordinance, may by order declare that the standard crop of that estate or small holding for that period shall be deemed to have been increased or reduced, as the case may be, by the amount in respect of which the assessment was in error; and the exportable maximum of that estate or small holding for that period shall be deemed to have been increased or reduced, as the case may be, to such amount as would have been the exportable maximum of that estate or small holding for that period if such error had not been made.

(2) A copy of every order made by the Controller under sub-section (1) in respect of any estate or small holding shall be served on the registered proprietor of that estate or small holding who may appeal against that order to the Board of Appeal on the ground only that there was no error in the assessment in respect of which the order was made.

Ceylon quota
of export.

16 The Ceylon quota of export shall, in respect of each period of assessment, be declared by the Governor, with the advice of the Executive Committee, by Proclamation published in the Gazette.

Exportable
maximum.

17 (1) Subject to the provisions of sub-sections (4) and (5), the exportable maximum of any estate or small holding for any period of assessment shall be the amount of the standard crop of that estate or small holding for that period of assessment reduced by an amount ascertained by taking a percentage of such standard crop equal to the percentage of reduction.

(2) If there is no percentage of reduction for any period of assessment, the amount of the exportable maximum of any estate or small holding for that period shall, subject to the provisions of sub-sections (4) and (5), be the standard crop of that estate or small holding for that period.

(3) If there is a percentage of appreciation for any period of assessment, the amount of the exportable maximum of any estate or small holding for that period shall, subject to the provisions of sub-sections (4) and (5), be the standard crop of that estate or small holding increased by an amount ascertained by taking a percentage of such standard crop equal to the percentage of appreciation.

(4) (a) For any period of assessment, it shall be lawful for the Controller to cause to be deducted from the standard crop of every estate or small holding a further amount in addition to the amount, if any, authorised to be deducted under sub-section (1) for the purpose of making such adjustments as may appear necessary in the assessment of the standard crops or of the exportable maxima of estates and small holdings.

(b) Any surplus out of the amount deducted under paragraph (a) of this sub-section shall, after the application of that amount for all authorised purposes, be allocated *pro rata* by the Controller among the registered proprietors of all estates and small holdings from the standard crops of which such amount was so deducted :

Provided however, that the Controller may, if he is of opinion that the amount of such surplus is so small that it is impracticable so to allocate it, cause tea coupons or export licences or special export licences representing the amount of such surplus to be sold in such manner as he may deem fit and the proceeds of such sale credited to the Tea Control Fund.

(c) Any amount allocated by the Controller under paragraph (b) of this sub-section to the registered proprietor of any estate or small holding shall, upon such allocation, be deemed to form part of the exportable maximum of such estate or small holding, as the case may be, for the period of assessment for which the reduction authorised under paragraph (a) of this sub-section was made.

(5) (a) Where the exportable maximum of any estate or small holding for any period of assessment is deemed, in consequence of an order under section 15 (1) to have been increased or reduced, it shall be lawful for the Controller to cause an amount equivalent to the amount by which that exportable maximum is so deemed to have been increased or reduced, as the case may be, to be added to or deducted from the exportable maximum of that estate or small holding, or of any other estate or small holding in the same ownership, for the period of assessment during which that order is made or of for any one or more succeeding periods of assessment, in such instalments as he may in his discretion determine.

(b) It shall be lawful for the Controller to cause to be added to or deducted from the exportable maximum of any estate or small holding for any period of assessment, any amount which has been wrongly omitted from or included in, as the case may be, the exportable maximum of that estate or small holding, or of any other estate or small holding in the same ownership, for any one or more preceding periods of assessment, whether under the Tea (Control of Export) Ordinance, No. 11 of 1933, or under this Ordinance.

(c) The amounts (if any) authorised to be deducted from the exportable maximum of any estate or small holding under this sub-section shall be in addition to the amounts, if any, authorised to be deducted under sub-section (1) and sub-section (4).

(6) Notwithstanding anything contained in this section, the exportable maximum of St. Coomb's Estate for any period of assessment shall be the standard crop of that estate for that period.

18 (1) If in any period of assessment the total amount (hereinafter in this section referred to as the first amount) of the standard crops of all registered estates and small holdings for that period exceeds the amount (hereinafter in this section referred to as the second amount) of the Ceylon quota of export for the same period, the difference between the two amounts shall, when expressed as a percentage of the first amount, be the percentage of reduction.

(2) If in any period of assessment the first amount is equal to the second amount, there shall be no percentage of reduction for that period.

(3) If in any period of assessment the first amount is less than the second amount, the difference between the two amounts shall, when expressed as a percentage of the first amount, be the percentage of appreciation.

Percentage of reduction and percentage of appreciation.

Determination and notification of the exportable maximum.

19 The Controller shall, as soon as may be practicable in each period of assessment, proceed to determine the exportable maximum of each estate and small holding for that period and shall notify such maximum in at least one English, one Sinhalese and one Tamil newspaper circulating in Ceylon.

Tea Coupons.

20 (1) Subject to the provisions of sub-section (3), the registered proprietor of an estate or small holding shall be entitled to receive from the Controller in respect of any period of assessment tea coupons representing the amount determined to be the exportable maximum of that estate or small holding for that period.

(2) The registered proprietor of an estate or small holding shall also be entitled to receive from the Controller in respect of any period of assessment tea coupons representing the amount, if any, allocated to him in respect of that period under section 17 (4) (b).

(3) In anticipation of the determination of the exportable maximum of any estate or small holding for any period of assessment, the Controller may issue to the registered proprietor of that estate or small holding, at such time and in such quantities as the Controller may in his discretion determine, tea coupons in respect of the amount estimated by the Controller to be the probable exportable maximum of that estate or small holding for that period.

The amount represented by tea coupons issued under this sub-section shall be deducted from the amount in respect of which tea coupons may be issued under sub-section (1).

(4) Nothing in this Ordinance contained shall be deemed to render illegal the transfer or sale of tea coupons by one person to another.

Export Licences.

21 (1) Any person shall be entitled in any period of assessment to obtain from the Controller in exchange for one or more tea coupons issued in that period an export licence authorising the export from Ceylon during that period of an amount of made tea equal to the amount represented by such coupon or coupons.

(2) Every export licence shall have endorsed thereon the date of issue of that licence and shall be valid for a period of three months only reckoned from the date of issue :

Provided that, upon sufficient cause being shown, the Controller may in his discretion extend the said period for a further period not exceeding three months :

Provided, further, that no export licence shall, whether the period of its validity has been so extended or not, be valid beyond the thirty-first day of March in the period of assessment in which that licence is issued.

(3) Nothing in this Ordinance contained shall be deemed to render illegal the transfer or sale of export licences by one person to another.

Special export licence in period of assessment 1938-1939.

22 (1) The holder of any tea coupon issued under the Tea (Control of Export) Ordinance, No. 11 of 1933, which ceases to be valid on the thirty-first day of March, 1938, in accordance with the provisions of paragraph (b) of section 27A (1) of that Ordinance, shall, if such coupon has not been exchanged for an export licence under that Ordinance, be entitled, on application made to the Controller on or before the fourteenth day of April, 1938, to obtain in exchange for that coupon a special export licence authorising the export from Ceylon of the amount of made tea represented by that coupon.

(2) Notwithstanding the provisions of section 27 (4) of the Tea (Control of Export) Ordinance, No. 11 of 1933, no export licence issued under that Ordinance on or after the first day of October, 1937, shall be valid after midnight on the thirty-first day of March, 1938 ; but the holder of any such licence shall be entitled, on application made to the Controller on or before the fourteenth day of April, 1938, to exchange that licence for a special export licence authorising the export from Ceylon of the quantity of made tea to authorise the export of which the original licence was issued.

(3) Every special export licence issued under this section shall cease to be valid on the thirtieth day of June, 1938.

(4) The amount of made tea exported under any special export licence issued under this section shall be set off against the Ceylon quota of export for the period of assessment under the Tea (Control of Export) Ordinance, No. 11 of 1933, commencing on the first day of April, 1937.

Special export licences in subsequent periods of assessment.

23 (1) The holder of any tea coupon issued in any period of assessment who has not obtained in exchange for such coupon an export licence under section 21, may, on application made to the Controller within fourteen days next

following the end of that period, obtain from the Controller a special export licence authorising the export from Ceylon of the amount of made tea represented by that coupon.

(2) The holder of any export licence issued in any period of assessment who has not, before the end of that period, exported from Ceylon any quantity of made tea which he is authorised to export under that licence, may, on application made to the Controller within fourteen days next following the end of that period obtain in exchange for that licence a special export licence authorising the export from Ceylon of that quantity of made tea.

(3) Every special export licence issued under this section shall have endorsed thereon the date of issue of that licence and shall cease to be valid at midnight on the thirty-first day of May next following the date of its issue.

(4) The amount of made tea exported under a special export licence issued under sub-section (1) shall be set off against the Ceylon quota of export for the period of assessment in which the tea coupon exchanged for that special export licence was issued.

(5) The amount of made tea exported under a special export licence issued under sub-section (2) shall be set off against the Ceylon quota of export for the period of assessment in which the original licence exchanged for that special export licence was issued.

(6) No made tea shall be exported under a special export licence issued under sub-section (1) or sub-section (2) unless it is tea produced in the period of assessment in which the tea coupon or the export licence, as the case may be, in exchange for which such special export licence was obtained, was issued.

24 Nothing in this Ordinance shall be deemed to render illegal the transfer or sale of special export licences from one person to another.

Transfer or sale of special export licences.

25 No made tea shall be exported from Ceylon unless the exportation thereof is authorised by an export licence or special export licence issued by the Controller and no made tea shall be received or accepted for exportation or shipment by any customs or other officer unless the exportation thereof is so authorised :

Prohibition of export of made tea except under licence.

Provided, however, that no licence shall be required to authorise—

- (a) the export from Ceylon of any sample of made tea, where the sample is made up in a package not exceeding eight ounces in weight, or
- (b) the re-export from Ceylon of any made tea which is proved to the satisfaction of the Principal Collector of Customs to have been imported into Ceylon.

26 (1) No seed, root, stump or bud of any tea plant, and no cutting from or living portion of such plant which is capable of being used to propagate it, shall be exported from Ceylon :

Prohibition of export of tea seed &c.

Provided, however, that the Controller may in accordance with the prescribed conditions issue a licence authorising the export from Ceylon of any such seed, root, stump, or bud of such plant, or such cutting therefrom or portion thereof, if he is satisfied that it is required for scientific purposes by any institution in India or the Netherlands East Indies.

(2) Regulations may be made prescribing the conditions and restrictions subject to which the Controller may issue any licence under sub-section (1).

27 (1) From and after the thirty-first day of March, 1938, no tea shall be planted on any land in Ceylon which was not planted with tea on that day and which is not, or does not form part of, a registered estate or small holding, except—

Prohibition against planting new areas, subject to certain exceptions:

- (a) in the cases for which provision is made under section 28 and paragraph (a) of section 29 ;
- (b) in the case of a nursery planted in accordance with the provisions of section 30 ; and
- (c) in such other special cases and to such extent and subject to such conditions as may be prescribed.

(2) The total area of land the planting of which may be permitted in all such special cases as are referred to in paragraph (c) of sub-section (1), together with any excess area referred to in section 30 (6), shall not in the aggregate exceed 2,796 acres, which shall be deemed to represent one-half of one per centum of the total area of land in Ceylon planted with tea on the thirty-first day of March, 1938.

Certain cases in which planting of new areas permitted.

28 Where, at any time after the thirty-first day of March, 1933, and before the thirty-first day of March, 1943—

- (a) any tea growing on any estate or small holding registered under the Tea (Control of Export) Ordinance, No. 11 of 1933, or under this Ordinance, has been or is permanently destroyed by subsidence, flood, river erosion, or other act of God ; or
- (b) the whole or any part of any such estate or small holding has been or is lawfully acquired by or for the use of the Crown or any local authority and has ceased or ceases to be land planted with tea,

the registered proprietor of such estate or small holding may, on application made to the Controller on the prescribed form, be granted authority to plant tea on any land not planted with tea on the thirty-first day of March, 1938, to an extent not exceeding that on which the tea so destroyed was growing or not exceeding the extent which was so acquired, as the case may be, and subject to such other conditions as may be prescribed.

Replanting.

29 (a) Where any estate or small holding registered under the Tea (Control of Export) Ordinance No. 11 of 1933, which was planted with tea on the thirty-first day of March, 1936, or any portion of any such estate or small holding, is lying fallow on the thirty-first day of March, 1938, by reason of the fact that the tea plants on that estate or small holding or portion thereof have been uprooted since the thirty-first day of March, 1936 ; or

(b) Where after the thirty-first day of March, 1938, the tea plants on any registered estate or small holding or portion thereof are uprooted—

the proprietor of such estate or small holding shall, on application made to the Controller on the prescribed form, be entitled to replant with tea such estate or small holding or such portion thereof, as the case may be, from which the tea plants have been so uprooted.

Planting or maintenance of nurseries.

30 (1) From and after the thirty-first day of March, 1938, no land which was not planted with tea on that day shall be planted with tea for the purposes of a nursery, except upon a licence issued by the Controller.

(2) From and after the prescribed date, no tea nursery existing on the thirty-first day of March, 1938, shall be maintained except upon a licence issued by the Controller.

(3) Every licence issued under sub-section (1) or sub-section (2)—

- (a) shall be in the prescribed form and subject to the terms and conditions set out therein,
- (b) shall describe the land on which the nursery may be maintained or planted and specify the extent thereof, and
- (c) shall specify the period for which the licence shall be valid.

(4) No nursery shall be maintained or planted in contravention of the terms or conditions of the licence issued therefor.

(5) All tea grown in every nursery shall be eradicated and destroyed within two weeks after the date of expiry of the licence relating to that nursery.

(6) The total area of land under nurseries in Ceylon on the thirty-first day of March, 1943, shall not exceed 945 acres, 1 rood, 25 perches, which extent shall be deemed to have been the area under nurseries on the thirty-first day of March, 1933 :

Provided, however, that if on the thirty-first day of March, 1943, the total area of land under nurseries in Ceylon exceeds the extent specified in this section, any area under nurseries in excess of such extent shall be deemed to form part of the extent of 2,796 acres mentioned in section 27 (2).

(7) Nothing in this section shall apply or be deemed to apply to any nursery planted or maintained on any area of land forming part of the registered area of any estate or small holding.

Filling or supplying of vacancies.

31 From and after the thirty-first day of March, 1938, nothing in this Ordinance shall be deemed to prohibit the planting of tea upon any land which was on that day planted with tea and which is or forms part of an estate or small holding registered under this Ordinance, if such planting is done for the purpose only of filling or supplying vacancies caused by the death or uprooting of any plants growing on that land.

32 (1) It shall be lawful for the Controller at any time to direct the person registered as the proprietor of any estate or small holding or of any part of any estate or small holding, or any person claiming to be registered as such proprietor—

Power of Controller to call for information.

- (a) to furnish before a specified date such information as the Controller may require in respect of that estate or small holding or such explanation as the Controller may require in respect of any particulars stated in any return furnished by such person ; or
- (b) to produce or cause to be produced before a specified date such documentary or other evidence as the Controller may require for the purpose of verifying any information furnished by such person in respect of any estate or small holding or any facts or particulars in any return furnished by such person.

33 The Controller or any person authorised by him in writing may at any time enter any estate, small holding or immature area for the purpose of carrying out an inspection or making a survey plan of that estate, small holding or area, and may, for the purposes of such inspection, enter any factory, office, or other building on that estate, small holding or area.

Right to enter estates, &c., for inspection.

34 (1) If at any time it appears to the Executive Committee that the amount of made tea produced in Ceylon is greatly in excess of the Ceylon quota of export together with the amount of made tea estimated to be required for consumption in Ceylon, the Executive Committee may make such regulations as to it may seem expedient for the purpose of controlling the production of tea in Ceylon.

Control of the production of tea.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), regulations may be made—

- (a) prescribing the maximum quantity of tea which may be permitted to be in the possession or under the control at a given time of any or all of the registered proprietors of estates or small holdings, or of the registered producers or exporters of, or the registered dealers in, tea ;
- (b) providing for the registers and books which shall be kept by the registered proprietors of estates or small holdings and by producers or exporters of, or dealers in, tea ; and
- (c) providing for all other matters which may appear to it to be necessary for the introduction of a system of control of the production of tea, or incidental thereto or connected therewith.

35 (1) Any person who—

Offences.

- (a) commits a breach of any of the provisions of this Ordinance or of any regulation, or
- (b) makes default in complying with any direction or requirement duly made under the powers conferred by this Ordinance, or
- (c) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred upon him under this Ordinance, or
- (d) knowingly makes a false statement in any declaration or return made or furnished by him under this Ordinance,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

(2) No prosecution for any offence under this Ordinance shall be instituted except with the written sanction of the Controller.

(3) Upon conviction of any person for a breach of any provision of section 27 or section 28 or section 29 or section 30, or of any regulation made under section 27 or section 28, it shall be lawful for a Police Magistrate, if such breach relates to the planting or growing of tea in any nursery or other land, in addition to any fine or other penalty which he may impose, to order that all tea planted or grown in contravention of such provision should be eradicated and destroyed by or at the instance of the person so convicted within a period to be fixed in the order ; and upon failure of the person so convicted to comply with the terms of such order within the period so fixed, the Police Magistrate may cause the tea referred to in that order to be eradicated and destroyed at the expense of such person. The cost of so eradicating and destroying the tea may be recovered from that person as though a fine for a like amount had been imposed upon him by the Magistrate, notwithstanding the fact that the total

amount of such cost may be in excess of the amount which such Magistrate may impose as a fine in the exercise of his ordinary powers or jurisdiction.

Tea Control
Fund.

36 (1) There shall be established a Tea Control Fund for the purposes of this Ordinance.

(2) All moneys standing to the credit of the Tea Control Fund established under the Tea (Control of Export) Ordinance, No. 11 of 1933, at midnight on the thirty-first day of March, 1938, and all moneys which under section 32 (5) of that Ordinance are payable to the Tea Controller for the credit of that fund in respect of any period prior to the first day of April, 1938, shall, after all such payments from that fund as are mentioned in paragraph (b) of section 33 (1) of that Ordinance have been made in respect of any period prior to the first day of April, 1938, be credited and paid to the Tea Control Fund established under sub-section (1).

(3) In order to provide an income for the payment of the expenses of the administration of this Ordinance and such other expenses as may be authorised under section 37 there shall be charged, levied and paid an export duty on tea of such amount as may be determined from time to time by a resolution of the State Council duly passed at any public session of the Council and sanctioned by the Governor :

Provided that until a resolution is passed under this sub-section, the duty authorised to be collected by any resolution passed under section 32 (1) of the Tea (Control of Export) Ordinance, No. 11 of 1933, and which is in force on the thirty-first day of March, 1938, shall continue to be charged, levied and paid from and after midnight on that day.

(4) Every resolution under sub-section (3) shall be published in the Gazette and the duty authorised to be collected thereunder shall be charged, levied and paid from the date prescribed in that resolution.

(5) Any resolution under sub-section (3) may be varied or rescinded at any time by a resolution of the Council passed, sanctioned and published in the manner prescribed in sub-sections (3) and (4).

(6) This section shall have effect as though it formed part of Ordinance No. 17 of 1869 and the provisions of that Ordinance shall apply accordingly.

(7) The proceeds of the export duty recovered under this Ordinance shall be paid over monthly to the Controller by the Principal Collector of Customs and shall be credited to the Tea Control Fund established under sub-section (1) and no part thereof shall be credited to general revenue.

(8) The export duty authorised to be imposed under this Ordinance shall be in addition to the export duties levied under any other written law but shall not be taken into account in estimating the export duty levied on tea under the law of Ceylon for the purposes of section 32 of the Income Tax Ordinance, 1932.

Expenditure
from Tea
Control Fund.

37 (1) Out of the Tea Control Fund there shall be paid—

- (a) the expenses of the administration of this Ordinance ;
- (b) the salaries, wages, rewards and fees necessary for or incidental to the carrying out of the provisions of this Ordinance ;
- (c) the prescribed contributions to any provident fund or scheme established in accordance with regulations for the payment of gratuities to any or all of the persons, officers and servants employed for the purposes of this Ordinance ; and
- (d) the expenses of assessment and all other expenses, costs and charges incidental to the carrying out of the provisions of this Ordinance.

(2) The surplus, if any, which may ultimately be found to be to the credit of the Tea Control Fund after the payment of the expenses, costs and charges referred to in sub-section (1) shall be applied for the furtherance and development of the tea industry and to purposes connected therewith or incidental thereto in such manner as the State Council may by resolution from time to time determine.

Estimates of
income and
expenditure.

38 (1) The Controller shall forward to the Executive Committee not later than the fifteenth day of February, in each period of assessment estimates of the expenditure likely to be incurred in the administration of the Ordinance and of the income likely to accrue to the Tea Control Fund for the next succeeding period of assessment.

(2) On receipt of the estimates of income and expenditure by the Executive Committee, the Minister shall, at the first convenient opportunity, place such estimates before the State Council for its approval.

39 No action shall be instituted against the Controller or against the Board or the Board of Appeal or any member of either Board or against any other officer or person acting in compliance with any direction or requirement of the Controller or of the Board or of the Board of Appeal, to charge him, them, or any of them in respect of any act which may have been done or which may have been left undone in good faith in pursuance or supposed pursuance of his or their powers or duties under this Ordinance.

Protection of officers.

40 All notices, orders, certificates, tea coupons, licences, or other documents required or authorised by this Ordinance to be served on, delivered, or issued to a registered proprietor shall be deemed to have been duly served, delivered or issued to such proprietor if they are delivered to or at the registered address of such proprietor, or forwarded by post by registered letter properly addressed with the registered address of such proprietor, and all such notices, orders, and other documents for service on any person other than a registered proprietor shall be deemed to be served on him if delivered to or at the residence of such person.

Service of notices, &c.

41 (1) Every return required by this Ordinance or under any regulation and any explanation or information required by the Controller to be furnished under this Ordinance shall, unless it is otherwise provided, be verified by a declaration that the statements contained therein are true and accurate.

Returns to be verified by statutory declaration.

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

42 (1) The Executive Committee of Agriculture and Lands may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1) the Executive Committee may make regulations for or in respect of all or any of the following matters :—

- (a) all matters stated or required in this Ordinance to be prescribed ;
- (b) the registers and books which shall be kept by the Controller, the forms of such registers and books and the particulars to be entered therein ;
- (c) the forms of all returns, notices, licences, coupons, certificates, declarations and documents required to be made, served, issued or used for the purposes of this Ordinance ;
- (d) the method of computing the allowance for the immature areas of estates for the purposes of this Ordinance ;
- (e) the division of Ceylon or any specified part thereof into planting districts, and, where practicable, the name of each such district ;
- (f) the registration of all producers or exporters of, or dealers in, tea ;
- (g) the returns to be furnished by registered proprietors of estates or small holdings and by producers or exporters of, or dealers in tea, declaring the stock of tea held or the quantity of tea produced, purchased sold or exported by them ;
- (h) the payment or recovery of fees or other charges ;
- (i) the establishment and regulation of a provident fund or scheme for the payment of gratuities to any or all of the persons, officers and servants employed for the purposes of this Ordinance and all matters incidental thereto, including the determination of the amounts from time to time to be paid to such fund or scheme from the Tea Control Fund ;
- (j) all matters incidental to or connected with the matters or subjects specifically referred to in this sub-section

(3) Every regulation made by the Executive Committee under this section shall be published in the Gazette and shall come into operation upon such publication.

(4) Every regulation made by the Executive Committee shall be brought before the State Council as soon after its publication under sub-section (3) as possible by a motion that such regulation shall be approved, and, if so approved, shall be submitted to the Governor for ratification.

(5) Any regulation which the State Council refuses to approve or which the Governor refuses to ratify shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall so be deemed to be rescinded shall be the date on which the State Council refuses to approve or the date on which the Governor refuses to ratify the regulation, as the case may be.

(6) Notification of the date on which any regulation made by the Executive Committee is so deemed to be rescinded shall be published in the Gazette.

(7) Any regulation made by the Executive Committee shall, when approved by the State Council and ratified by the Governor, be as valid and effectual as if it were herein enacted. Notification of such approval and ratification shall be published in the Gazette.

Saving of rules made under Ordinance No. 11 of 1933.

43 Every rule made under the Tea (Control of Export) Ordinance, No. 11 of 1933, shall, so far as it is not inconsistent with this Ordinance or any regulation made thereunder, and so far as it makes provision for or in respect of any matter for or in respect of which regulations may be made under this Ordinance, continue in force until amended or rescinded by a regulation made under this Ordinance.

Estates or small holdings in one ownership.

44 All estates or small holdings in one ownership may be regarded and dealt with as one unit for the purposes of this Ordinance.

Power of Executive Committee to give directions to mitigate or prevent hardship in certain cases.

45 If in the operation of this Ordinance any case arises in which, in the opinion of the Executive Committee, substantial hardship is likely to be caused to any person by reason of any unintentional failure on the part of that person to observe any formality prescribed by this Ordinance or by any regulation, the Executive Committee may give such directions as may be necessary to mitigate or prevent such hardship.

Interpretation.

46 In this Ordinance, unless the context otherwise requires—

- “ Board ” means the Tea Advisory Board established under section 4 ;
- “ Board of Appeal ” means the Board of Appeal established under section 6 ;
- “ Ceylon quota of export ” means the maximum amount of made tea which may be exported from Ceylon in respect of any period of assessment ;
- “ Controller ” means the person appointed under section 2 to be or to act as Tea Controller ; and includes the Deputy Tea Controller and an Assistant Tea Controller ;
- “ estate ” means an area of land ten acres or more in extent on which the tea plant is grown for the purpose of harvesting the leaf thereof for conversion into made tea ;
- “ Executive Committee ” means the Executive Committee of Agriculture and Lands ;
- “ export licence ” means a licence for the export of tea issued under section 21 ;
- “ exportable maximum ” when used with reference to an estate or small holding means the portion of the Ceylon quota of export determined in respect of that estate or small holding in accordance with the provisions of this Ordinance ;
- “ immature area ” means an area of land planted with tea plants which are not fully mature ;
- “ India ” means India as defined in section 311 (1) of the Government of India Act, 1935, of the Imperial Parliament ;
- “ local authority ” means any Municipality, District Council established under the Local Government Ordinance, No. 11 of 1920, Local Board, Sanitary Board, or Village Committee ;
- “ made tea ” means tea manufactured from the leaf of the tea plant but does not include red-leaf, fluff, and sweepings ;
- “ Minister ” means the Minister for Agriculture and Lands ;
- “ Netherlands East Indies ” includes Java, Sumatra, and all other islands in the Netherlands East Indies ;
- “ percentage of reduction ” means the percentage of reduction calculated in the manner prescribed in section 18 ;
- “ percentage of appreciation ” means the percentage of appreciation calculated in the manner prescribed in section 18 ;
- “ period of assessment ” means the period of twelve months commencing on the first day of April in any year ;
- “ planting district ” means one of the districts into which Ceylon or any specific part thereof is divided by regulation ;
- “ prescribed ” means prescribed by regulation ;
- “ proprietor ” means the owner, lessee or usufructuary mortgagee of an estate or small holding, and includes any duly accredited agent of such owner, lessee or mortgagee ;

- “ registered ” means registered under the provisions of this Ordinance or any regulation ;
- “ regulation ” means a regulation made by the Executive Committee under this Ordinance ;
- “ small holding ” means an area of land less than ten acres in extent on which the tea plant is grown for the purpose of harvesting the leaf thereof for conversion into made tea ;
- “ special export licence ” means a licence for the export of tea issued under section 22 or section 23 ;
- “ standard crop ” when used with reference to an estate or small holding means the amount of made tea determined under the provisions of this Ordinance as the standard crop of that estate or small holding for any period of assessment ;
- “ tea ” means the plant known as “ *Thea Sinensis* ” and includes the leaf thereof whether in a natural or manufactured state ;
- “ Tea Control Fund ” means the fund established under section 36 ;
- “ tea coupon ” means a coupon issued under section 20.

(2) Any reference to an amount or quantity of tea or made tea shall be deemed to refer to that amount or quantity expressed in pounds weight.

47 This Ordinance shall continue in force for a period of five years reckoned from the first day of April, 1938 :

Duration of Ordinance.

Provided that the expiration of this Ordinance shall not affect any penalty, forfeiture, or punishment previously incurred under this Ordinance or under any regulation or affect any legal proceedings or remedy in respect of any such penalty, forfeiture, or punishment, and any such legal proceeding may be instituted, or continued, or enforced, and such penalty, forfeiture or punishment may be imposed as if this Ordinance had not expired.

Objects and Reasons.

The object of this Bill is to extend the period of Tea Control for a further period of five years from the 1st of April, 1938, in accordance with the Agreement entered into between the International Tea Committee and the associations representing the tea producers of India, the Netherlands East Indies and Ceylon.

2. This Bill, the provisions of which will come into force on 1st April, 1938, reproduces the main features of the Tea (Control of Export) Ordinance, No. 11 of 1933. A notable addition is the provision whereby a system of control of production of tea may be introduced, if it appears at any time that the amount of made tea produced in Ceylon is greatly in excess of the amount which Ceylon is entitled to export together with its requirements for local consumption. Any system of control of production will be introduced by regulations which will have to be approved by the State Council and ratified by the Governor. (Clauses 34 and 42 (3) and (4).)

3. In the new period of control, the registration of both estates and small holdings will be in charge of the Tea Controller. Under Clause 9 any register of estates kept by the Controller and any register of small holdings kept by a Government Agent under the existing Ordinance may be carried on and kept by the Controller.

4. Under the provisions of Clauses 12 and 13, the standard crop of an estate or small holding as determined under the existing Ordinance, for the period of assessment commencing on 1st April, 1937, will be the standard crop of that estate or small holding for the period of assessment commencing on 1st April, 1938, and for the succeeding periods, subject, of course, in the case of an estate, to an allowance in respect of immature areas. It will, however, be open to a proprietor to apply, before a date that will be fixed by regulation, to have his estate or small holding specially re-assessed for the period of assessment commencing on 1st April, 1938, and the standard crop as so re-assessed, will subject to an appeal to the Board of Appeal (Clause 14), be the standard crop of that estate or small holding for the succeeding periods of assessment. The assessment of estates and small holdings which are registered for the first time under the new law is provided for in Clauses 12 (4) and 13 (2). Under Clauses 15 and 17 (5) the Controller is empowered to correct any assessment of the standard crop of an estate and small holding made under either the existing Ordinance or the new law and to adjust the resulting increase

or decrease by an addition to or a deduction from the exportable maximum of that estate or small holding, or any other estate or small holding owned by the same proprietor. The addition or deduction may be made by instalments. Following the existing Ordinance, the Controller is empowered to make deductions from the standard crop of every estate and small holding for the purpose of making such adjustments as become necessary in the assessment of the standard crops or of the exportable maxima of all estates and small holdings. (Clause 17 (4) (a).) At present, any surplus left over after the adjustments are made has to be allocated by the Controller *pro rata* among proprietors. This surplus has sometimes proved to be so small that a *pro rata* allocation was impracticable. The proviso to Clause 17 (4) (b) empowers the Controller in such a case to cause coupons, or export licences or special export licences representing the surplus to be sold and the proceeds credited to the Tea Control Fund. Under the existing Ordinance, the exportable maximum of every estate or small holding has to be notified to the proprietor. As the exportable maximum is calculated from the standard crop, which is known to the proprietor, and as the percentage of increase or reduction (Clauses 17 (1) and 18) is the same for all estates and small holdings, it has been considered sufficient to provide that exportable maxima shall be notified in at least one English, one Sinhalese, and one Tamil newspaper (Clause 19).

5. Clauses 21, 22, and 23 deal with export licences and special export licences, and in accordance with the International Agreement it is provided that all tea exported under the authority of a special export licence shall be tea produced in the period of assessment in which the tea coupon or the export licence in exchange for which the special export licence was obtained, was issued. A special export licence will (except in the first year of the new period of control) expire on the thirty-first day of May next following the date of issue, and not on the thirtieth day of June as provided in the existing Ordinance.

6. Clause 26 prohibits the export of tea seed or any part of a tea plant which is capable of being used to propagate it except upon a licence. The Controller will issue such a licence only if he is satisfied that the tea seed, &c., is required for scientific purposes by any institution in India or the Netherlands East Indies.

7. Clauses 27 to 30 give effect to the provisions of the International Agreement relating to the planting of new areas and the replanting of existing areas. Where the tea growing in any area is destroyed by subsidence, flood, &c., or where any area is acquired for the purposes of the Government or a local authority, tea may be planted on a new area to a corresponding extent (Clause 28). No new tea nurseries can be established without a licence. A date will be prescribed before which a licence will have to be obtained for the maintenance of existing nurseries (Clause 30).

8. Clause 35 brings the penalty which may be imposed for an offence under the Ordinance into line with that which may be imposed under the Rubber Control Ordinance, No. 6 of 1934, and also requires that the sanction of the Controller should be obtained for the institution of a prosecution for any such offence.

9. Regulations may be made by the Executive Committee under Clause 42 establishing a provident fund for the persons employed for the purposes of the new Ordinance and under Clause 37 contributions may be made to that fund from the Tea Control Fund.

10. Clause 45 provides that in any case where substantial hardship is likely to be caused to any person through an unintentional failure to comply with any formality prescribed by the new law, the Executive Committee may give the necessary directions to mitigate or prevent such hardship.

D. S. SENANAYAKE,
Minister for Agriculture and Lands.

Colombo, December 16, 1937.