



THE

CEYLON GOVERNMENT GAZETTE

No. 8,364 — TUESDAY, APRIL 12, 1938.

Published by Authority.

PART II.—LEGAL.

(Separate paging is given to each Part in order that it may be filed separately.)

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PRINTED AT THE CEYLON GOVERNMENT PRESS, COLOMBO.

DRAFT ORDINANCES.

MINUTE.

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

An Ordinance further to amend the Ceylon State Mortgage Bank Ordinance, 1931.

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 Ceylon State Mortgage Bank (Amendment) Ordinance, No. of 1938.

Amendment of section 14 of Ordinance No. 16 of 1931.

2 Section 14 of the Ceylon State Mortgage Bank Ordinance 1931, (hereinafter referred to as " the principal Ordinance ") is hereby amended—

(a) by the re-numbering of that section as sub-section (1) of section 14 ;

(b) by the addition at the end of re-numbered sub-section (1) of the following new sub-section which shall have effect as sub-section (2) of that section :—

(2) Where a Director who has been appointed the Chairman of the Board for any year, is granted leave of absence for any period during that year, the Governor shall make a new appointment, from among the Directors, of a Chairman for that period.

Amendment of section 21 of the principal Ordinance.

3 (1) Section 21 of the principal Ordinance is hereby amended by the substitution for the words " prescribe the scale for their remuneration and travelling expenses.", of the following :—

" prescribe by rules made under section 91 the scales for their remuneration and travelling charges :

Provided, however, that it shall be lawful—

(a) for the Board to determine by resolution ; or

(b) for the manager, if, with the approval of the Governor, he is specially or generally authorised thereto by the Board under section 19 (1), to determine,

the remuneration and travelling charges to be paid to any such person in respect of the valuation of any property."

(2) The amendment made by sub-section (1) shall be deemed to have had effect on and after the fifteenth day of April, 1935.

Insertion of new section 36A in the principal Ordinance.

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

Certificate of Financial Secretary to be conclusive proof of regularity of issue of debenture.

36A. Every debenture shall be inscribed with a certificate bearing the signature or the facsimile of the signature of the Financial Secretary in the form set out in Schedule D. Such certificate shall for all purposes be conclusive evidence of the fact that the debenture has been duly issued in conformity with the provisions of this Ordinance, and that the payment of the principal of the debenture and of the interest thereon is a charge upon the general revenue of the Island under section 38.

Insertion of new section 37A in the principal Ordinance.

5 The following new section shall be inserted immediately after section 37 of the principal Ordinance, and shall have effect as section 37A of that Ordinance :—

Issue of debentures in the name of a minor.

37A. (1) The Board may issue debentures in the name of a minor upon application in that behalf made by the minor, or by either of his parents or by the person to whom a certificate of curatorship to the estate of the minor has been granted.

(2) Where any application is made under sub-section (1) or where any debenture is issued upon such application, the provisions of this Chapter and of any rules made under section 91 (d) shall, save as otherwise provided in this section or in section 39A but notwithstanding anything in any written or other law to the contrary, apply in like manner as if such application was made by or on behalf of, or such debenture was issued in the name of, a person who has attained the age of twenty-one years.

6 Section 38A of the principal Ordinance is hereby repealed.

Repeal of section 38A of the principal Ordinance.

7 The following new section shall be inserted immediately after section 39 of the principal Ordinance, and shall have effect as section 39A of that Ordinance :—

Insertion of new section 39A in the principal Ordinance.

39A. (1) The interest on and principal of any debenture issued in the name of a minor shall be paid —

Payments in respect of debentures issued in the name of a minor.

- (a) if the debenture was issued upon the application of the minor, to the minor ;
- (b) if the debenture was issued upon the application of his parent or of a person to whom a certificate of curatorship to the estate of the minor has been granted, to the parent or to such person or to the successor of such person, as the case may be :

Provided, however, that—

- (i) where a debenture is issued in the name of a minor upon application made by his parent, the interest on and principal of the debenture may, if the parent so requires, be paid to the minor ; and
- (ii) every payment made in respect of any debenture issued in the name of any person who is not, on the date of payment, a minor, shall be made to that person.

(2) The receipt of any minor, parent or other person for any money paid to him in accordance with the provisions of sub-section (1) shall, notwithstanding anything in any written or other law to the contrary, be a full and sufficient discharge therefor.

8 (1) Section 53 of the principal Ordinance is hereby amended as follows :—

Amendment of section 53 of the principal Ordinance.

- (a) by the re-numbering of that section as sub-section (1) ;
- (b) in the re-numbered sub-section (1),—
 - (i) by the substitution in paragraph (a) thereof, for the words "The amount on loan" of the words "The total amount on loan"; and
 - (ii) by the substitution for paragraph (d) thereof, of the following :—

"(d) The total amount on loan from the Bank at any one time on the security of any property shall not exceed one-half of the value of that property."

- (c) by the addition after the re-numbered sub-section (1) of the following new sub-section which shall have effect as sub-section (2) of that section :—

"(2) Where a loan has been granted by the Bank and the property mortgaged as security for that loan is not encumbered by any mortgage to any person other than the Bank, the Bank may, subject to the other provisions of this Ordinance relating to loans, grant an additional loan the repayment of which shall be secured by a further mortgage of that property ; and such further mortgage shall, for the purposes of sub-section (1) and of section 4, be deemed to be a primary mortgage."

9 The provisions of section 53 of the principal Ordinance as amended by section 8 of this Ordinance shall have effect as if they were in force on the day of

Retrospective effect of section 53 of the principal Ordinance as amended by this Ordinance.

10 Section 64 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Substitution of new section for section 64 of the principal Ordinance.

64. Besides the amount due on the loan, the Board may recover from the debtor or any person acting on his behalf—

Recovery of expenses and costs incurred by the Bank.

- (a) all moneys expended by the Bank, in accordance with the covenants contained in the mortgage bond executed by the debtor, in the payment of premiums and other charges in respect of the policy of insurance effected on the land mortgaged to the Bank and in the payment of all other costs and charges authorised to be incurred by the Bank, under the covenants contained in the mortgage bond executed by the debtor ; and
- (b) the costs of advertising the sale and of selling the land : Provided that the costs incurred under this paragraph shall not exceed such percentage of the loan as may be prescribed.

Amendment of section 65 of the principal Ordinance.

11 Section 65 of the principal Ordinance is hereby amended by the substitution for the words "costs payable" occurring in that section, of the words "moneys and costs recoverable".

Insertion of new section 83A in the principal Ordinance.

12 (1) The following new section shall be inserted immediately after section 83 of the principal Ordinance, and shall have effect as section 83A of that Ordinance :—

Governor's power to authorise loans to the Bank out of general revenue.

83A. (1) The Governor may from time to time at the request of the Board authorise the Deputy Financial Secretary to lend to the Bank, out of the general revenue of the Island, such sums as the Governor may deem necessary, upon such terms as may be determined by the Financial Secretary as to the mode and time of repayment of any sum so lent and of the interest payable thereon.

(2) The provisions of sub-section (1) shall be in addition to and not in substitution of the provisions of section 83, and no report under section 82 shall be necessary in order to enable the Governor to exercise the powers conferred by that sub-section.

(2) The new section 83A inserted in the principal Ordinance by sub-section (1) shall be deemed to have had effect on and after the thirty-first day of October, 1936.

Insertion of new Schedule D to the principal Ordinance.

13 The following new Schedule shall be added immediately after Schedule C to the principal Ordinance and shall have effect as Schedule D to that Ordinance :—

SCHEDULE D.

(Section 36a.)

Form of Certificate.

I certify that this debenture is issued in conformity with the provisions of the Ceylon State Mortgage Bank Ordinance, 1931, and that the payment of the principal of this debenture and of the interest thereon is guaranteed by the Government of Ceylon and is a charge upon the general revenue of the Island.

Objects and Reasons.

The object of this Bill is to effect certain amendments of the Ceylon State Mortgage Bank Ordinance, 1931, which have been found to be necessary in order to facilitate the working of the Ordinance.

2. Section 14 of the principal Ordinance provides for the annual appointment of the Chairman of the Board and for the election of a member to preside at any meeting from which the Chairman is absent. That section does not, however, include provision for the appointment of a person to be the Chairman for any period for which the Chairman appointed for the year is granted leave of absence. The object of Clause 2 is to amend section 14 so as to enable the Governor to make a new appointment in such a case.

3. The effect of section 21 of the Ordinance is that the remuneration to be paid to valuers appointed by the Board to inspect and value properties must be determined according to scales prescribed by means of rules made under section 91 (b) of the Ordinance. This procedure has been found to be unsuitable, since the remuneration that should be paid in respect of any valuation depends on the nature of the work involved; the Board has, therefore, adopted the practice of deciding by means of a resolution, or of authorising the Manager under section 19 (1) to determine in certain instances, the amount of the fee payable to a valuator for his services in any particular case.

Clause 3 of this Bill regularises the existing practice by inserting in section 21 of the Ordinance a proviso empowering the Board to determine by resolution, or to authorise the Manager under section 19 (1) of the Ordinance to determine the remuneration to be paid to valuers in respect of each valuation.

4. The Trusts Ordinance, No. 9 of 1917, was amended by Ordinance No. 1 of 1934, which added the debentures of the Ceylon State Mortgage Bank to the list of authorised securities for the investment of trust funds.

Debentures duly issued by the Ceylon State Mortgage Bank carry a Government guarantee under section 38 of the Ceylon State Mortgage Bank Ordinance, 1931. Since this guarantee did not originally attach to debentures issued in excess of the limits prescribed in the proviso to section 35 of the principal Ordinance, persons charged with the investment of trust funds hesitated to invest such moneys in debentures of the Bank. The Ceylon State Mortgage Bank Amendment Ordinance, No. 23 of 1934, therefore, inserted in the principal Ordinance

a new section 38A, which attaches a Government guarantee to debentures issued in excess of the limits prescribed in the proviso to section 35, if the issue does not contravene the provisions of the Ordinance in other respects. Representations have, however, been made to the Government that there are no means by which the public can ascertain whether any debenture has been issued in accordance with the provisions of the Ordinance in other respects, and that consequently trustees are still reluctant to invest trust funds in these debentures.

The object of Clause 4 of this Bill is to add to the principal Ordinance a new section 36A which provides that every debenture issued by the Bank shall be inscribed with a certificate signed by the Financial Secretary which will be conclusive evidence that it is issued in conformity with the provisions of the Ordinance. In effect, all debentures issued by the Bank will carry a Government guarantee, and it will be for the Government to secure that they are duly issued in accordance with all the provisions of the Ordinance.

Section 38A of the principal Ordinance will be unnecessary in view of the insertion of the new section 36A and it is therefore repealed. (Clause 6).

5. (a) The object of Clause 5 is to insert in the principal Ordinance a new section 37A which will enable the Board to issue debentures in the name of a minor out of moneys paid for the purpose by the minor or by his parent or by the curator of his estate.

Sub-section (2) of the new section will provide that the other sections of the Ordinance and the rules made under section 91 (d) will apply in such cases, except where otherwise provided in the new sections 37A and 39A.

(b) Clause 7 effects a consequential amendment by which a new section 39A is inserted in the principal Ordinance to provide for payment of moneys due upon debentures issued in the name of a minor.

The interest and principal upon such debentures will under sub-section (1) of the new section 39A be paid to the minor if they were issued upon his application, or to the parent or curator or to his successor if they were issued upon the application of the parent or curator, as the case may be. A parent will however be enabled to request that payments on debentures issued on his application should be paid to the minor and provision is made to the effect that where the debenture holder attains full age, all such payments shall be made to him.

The new section will contain provisions whereby the receipt of a minor or of a parent or curator for moneys paid to him in accordance with its provisions will be a valid discharge therefor.

6. (a) By reason of the provisions of sections 4 and 53 (c) of the principal Ordinance, no loan may be granted by the Bank except on the security of the primary mortgage of immovable property. The effect of these provisions is that, where a particular property has been mortgaged to the Bank, no further loan can be granted on the security of the same property, since any subsequent mortgage, even though it is in favour of the Bank, will not be a primary mortgage. It is considered desirable, however, that the Board should have the power to grant an additional loan on the security of property already mortgaged to the Bank, in a case where the amount originally advanced by the Bank falls short of one half of the total value of the property.

Clause 8 (1) amends section 53 by the addition of a new sub-section (2) which will enable the Board to grant an additional loan; the Board will only have that power in cases in which the property is not encumbered by any mortgage other than the primary mortgage to the Bank and the other provisions of the Ordinance relating to loans will continue to apply.

Consequential amendments will be effected in paragraphs (a) and (d) of the existing section 53.

(b) Clause 9 is intended to give retrospective validity to loans already granted in the circumstances set out in paragraph (a).

7. The form of the mortgage bond executed by a person to whom a loan is granted by the Bank contains covenants which empower the Bank to make payments in respect of premiums and other charges due in respect of policies of insurance effected on the mortgaged property and of rates, taxes and other such charges due in respect of the property, and to incur expenses for the purpose of repairing and maintaining the property.

The object of Clause 10 is to amend section 64 of the principal Ordinance so as to provide that when any property is sold under the powers conferred by section 63, all payments and expenses made and incurred by the Bank, in accordance with the covenants contained in the mortgage bond, may be recovered out of the proceeds of the sale of the property.

Clause 11 effects a consequential amendment in section 65 of the principal Ordinance.

8. Section 83 of the principal Ordinance enables the Governor to authorise the Financial Secretary to lend the Bank any sum that may be necessary out of general revenue in a case where the Board under section 82 reports that the balance in the Capital Account is likely to be insufficient to meet payments which will have to be made from that Account.

It has, however, been found to be advantageous both to general revenue and to the Bank for short-term loans to be made to the Bank out of general revenue even in cases where no such insufficiency is anticipated.

The object of clause 12 is to insert a new section 83A in the principal Ordinance which will enable the Governor at any time at the request of the Board to authorise the Deputy Financial Secretary to make such short-term loans on conditions to be determined by the Financial Secretary.

Clause 12 (2) is intended to confer validity on short-term loans which have been so granted to the Bank on and after October 31, 1936.

April 8, 1938.

H. J. HUXHAM,
Financial Secretary.

NOTICES OF INSOLVENCY.

In the District Court of Colombo.

No. 5,157. In the matter of the insolvency of Lloyd Horace Firth of 51, Albion road, Dematagoda, Colombo.

NOTICE is hereby given that a meeting of the creditors of the above-named insolvent will take place at the sitting of this court on June 7, 1938, for the grant of a certificate of conformity to the insolvent.

By order of court, GERALD E. DE ALWIS,
April 6, 1938. Secretary.

In the District Court of Colombo.

No. 5,170. In the matter of the insolvency of Granville Thomas Greig of 161, Nagalagam street, Colombo.

NOTICE is hereby given that a meeting of the creditors of the above-named insolvent will take place at the sitting of this court on May 31, 1938, for the grant of a certificate of conformity to the insolvent.

By order of court, GERALD E. DE ALWIS,
April 6, 1938. Secretary.

In the District Court of Colombo.

No. 5,209. In the matter of the insolvency of Eric Verne Joseph of Chapel lane, Wellawatta.

WHEREAS the above-named E. V. Joseph has filed a declaration of insolvency, and a petition for the sequestration of his estate has been filed by Cyril Jayawardena of Dehiwala, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said E. V. Joseph insolvent accordingly; and that two public sittings of the court, to wit, on May 10, 1938, and on June 7, 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,
April 5, 1938. Secretary.

In the District Court of Jaffna.

Insolvency In the matter of the insolvency of Kasinathar Case Ponnampalam of Kokkuvil. No. 159.

NOTICE is hereby given that a meeting of the creditors of the above-named insolvent will take place at the sitting of this court on May 25, 1938, at 10.30 A.M. for the purpose of granting a certificate of conformity to the insolvent.

By order of court, K. M. CHELLAPPAH,
April 8, 1938. 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 a sitting of this court on the above matter will be held on June 1, 1938, for the examination of the insolvent.

By order of court, R. B. RATNAIKE,
Secretary.

NOTICES OF FISCALS' SALES.

Western Province.

In the District Court of Colombo.

The Commissioners of the Loan Board Plaintiffs.
No. 53,991. *B. 36 Vs 39*

(1) Edward Osmund Felsing of Merlyn Cottage, Bambalapitiya, Colombo, (2) Dr. Richard de Abrew and (3) Beatrice Elizabeth de Abrew, both of Farnham, Stafford place, Colombo, (4) Bertram Perkins de Abrew of Colombo, (5) Donald Christini Gunasekera of Colombo; the 4th and 5th defendants as legal representatives of the 2nd defendant, deceased, (6) William Andrew Felsing of Alexandra road, Wellawatta, executor of the last will of 1st defendant, deceased, substituted in place of the 1st defendant, deceased Defendants.

NOTICE is hereby given that on Friday, May 6, 1938, will be sold by public auction at the respective premises the following property mortgaged with the plaintiffs by bond No. 333 dated October 2, 1928, attested by C. M. G. de Saram, Notary Public, and declared specially bound and executable under the decree in this action and ordered to be sold by the orders of court dated December 11, 1934, and March 29, 1938, for the recovery of the sum of Rs. 152,074.13

together with interest on Rs. 140,219.99 at 6½ per cent. per annum from September 19, 1933, to date of decree with further interest thereafter on the aggregate amount of the said decree at 9 per cent. per annum till the date of payment in full and costs of suit, less Rs. 66,950 credited to plaintiffs, viz. :—

1. At 4 p.m.—All that allotment of land with the buildings standing thereon called and known as Hopewell House formerly bearing assessment No. 63 and presently Nos. 60 and 62 (now Nos. 240 and 242), Union place, situated in Union place, Slave Island within the Municipality and District of Colombo, Western Province; and bounded on the north by the high road, on the east by a part of the same garden, on the south by the property of P. M. Fernando, and on the west by the property of Mrs. Staples, containing in extent 1 rood and 32 square perches, according to the plan thereof dated December 20, 1882, made by H. M. Koelmeyer, Surveyor; which said allotment of land has been recently surveyed and according to plan No. 1271 dated December 8, 1922, made by A. R. Savundranayagam, Licensed Surveyor and Leveller, is described as follows :—All that allotment of land with the buildings thereon called and known as Hopewell and Hopewell Stores, formerly bearing assessment No. 63 and presently Nos. 60 and 62 (now Nos. 240 and 242), Union place, situated at Union place aforesaid; bounded on the north by Union place, on the east by premises bearing assessment No. 64 belonging to Mr. Albert Ebert, on the south by premises bearing assessment No. 3 known as Siri Wimcna belonging to the estate of the late Mars Fernando, and on the west by premises known as Assambrook Mills belonging to Messrs. Brooke Bond and Company; and containing in extent 1 rood and 32.76 perches according to the said plan No. 1271. Registered A 226/295.

2. At 5 p.m.—All that defined portion of land called Appuhamigewatta with the buildings standing thereon called and known as Cornwall Cottage formerly bearing assessment No. 302/17c and presently No. 30, 9th lane, Bambalapitiya, situated at Bambalapitiya within the Municipality and District of Colombo, Western Province; bounded on the north by the property of G. D. Carolis and others, on the east by the property of I. L. M. Noordeen Hadjar, on the south by a lane, and on the west by the other part of the same property bearing assessment No. 17c1 known as York Cottage; containing in extent 22.25 perches, according to the plan thereof No. 1753 dated August 24, 1915, and made by H. C. Dias, Licensed Surveyor and Leveller. Registered A 226/296.

Together with all buildings standing and to be hereafter constructed on the said respective allotments of land and premises above described and all rights, privileges, easements, servitudes, and appurtenances whatsoever to the said respective allotments of land and premises belonging and all the estate, right, title, interest, claim, and demand whatsoever of the 1st defendant, deceased, and of the 6th defendant, as executor of the last will and testament of the 1st defendant deceased in, to, out of, or upon the same respectively.

Fiscal's Office,
Colombo, April 9, 1938.

J. R. TOUSSAINT,
Deputy Fiscal.

Central Province.

In the District Court of Colombo.

(1) The Right Rev. Mark Rodolph Carpenter, Garnier, Lord Bishop of Colombo, and (2) Ponnannendige Charles Edward Arnold Dias, both of Colombo, Trustees of New Cathedral Building Fund. Plaintiffs.
D. C. Colombo
No. 4,763.

(1) Murugasar Ambalavanar of Hawa Eliya, Nuwara Eliya, (2) Annapooranam Saravanamuttu, c/o Alagar Saravanamuttu, Provincial Engineer's Office, P. W. D., Nuwara Eliya, (3) Murugasar Sinnatamby of Hawa Eliya, Nuwara Eliya, (4) Kawanna Kader Ibrahim Saibo alias K. Gula Mohideen Saibo, c/o K. Abram Saibo & Co., Nuwara Eliya, (5) Gopaldas Bolchand, and (6) Jagoomal Righoomal, both carrying on business under the name, style, and firm of P. Balchand & Sons, New Bazaar, Nuwara Eliya. Defendants.

And

Sinnatamby Canagaratnam of Tellipallai, Jaffna, legal representative of the estate of Murugasar Sinnatamby, deceased. Substituted defendant.

NOTICE is hereby given that on Thursday, May 19, 1938, commencing at 2 o'clock in the afternoon, will be sold by public auction at the respective spots, the right, title, and

interest of the said defendants in the following property, for the recovery of Rs. 62,722.11, being principal insurance and interest calculated up to January 31, 1936, due under and in respect of mortgage bond No. 650 dated July 25, 1926, attested by V. C. Modder of Nuwara Eliya, Notary Public, and sued on in this action, together with further interest on Rs. 55,275 at the rate of 8 per centum per annum from and including February 1, 1936, till June 21, 1937, and thereafter on the aggregate amount of the decree at the rate of 9 per centum per annum till date of payment in full and costs of suit and poundage, viz. :—

May 19, 1938, at 2 p.m.

Part I.—All that and those the estate plantation and premises called and known as Rosewood, comprising all that allotment of land called Katumanakelle, situated in the village Katumana in Udapone korale in the District of Nuwara Eliya, Central Province; bounded on the north by a water-course, north-east and east by reservation along the road, south-east and south-west by land said to belong to the Crown, north-west by land said to belong to the Crown and land described in plan No. 60080; containing in extent 11 acres 1 rood and 32 perches according to the survey and description thereof authenticated by J. Stoddart, Surveyor-General, bearing date June 23, 1881, No. 119,983, registered O 24/115 in the Nuwara Eliya District Land Registry Office, together with the buildings, bungalows, machinery, fixtures, furniture, tools, implements, cattle; and other the dead and live stock, crops, produce, and appurtenances whatsoever to the said Rosewood estate and premises belonging or in any wise appertaining or held to belong or be appurtenant thereto and the full benefit and advantage of all insurances effected thereon and all the estate, right, title, interest, property, claim, and demand whatsoever of the 1st defendant of, in, to, upon, or out of the said Rosewood estate and premises.

May 19, 1938, at 4 p.m.

Part II.—All that and those the property and premises called and known as Murugasu buildings, situated within the Board of Improvement limits of the town of Nuwara Eliya in the District of Nuwara Eliya, Central Province; bounded on the north by the property of Maluku Mudaliyar and Benjamine Perera, south by a portion of the premises sold to Messrs. Whiteaway Laidlaw and Company, east by the New Bazaar road, and west by Badulla road; and containing in extent 25.57 perches according to the survey thereof made by J. G. Perera, Licensed Surveyor and Leveller, dated May 1, 1926, and being a defined portion of all that allotment of land situated within the Board of Improvement limits of the town of Nuwara Eliya aforesaid with the buildings thereon, lately called and known as Silverdale Bakery (formerly known as Ivy Cottage); bounded on the north and east by the minor road, on the south and west by the principal road to Badulla; containing in extent 1 rood and 6½ perches according to the title deed thereof, excluding therefrom a portion to the south, in extent 2½ perches acquired by the Crown; and which said land and premises are according to the plan thereof dated March 4, 1919, made by Philip Fowke, Surveyor, bounded on the north by a cement drain, on the south by a fence, on the east by New Bazaar street, and on the west by the main road from Kandy to Badulla; and contains in extent 1 rood and 4 perches, registered A 1/7 in the Nuwara Eliya District Land Registry Office, together with all the buildings standing or at any time hereafter to be erected thereon and all appurtenances whatsoever to the said property and premises belonging or in any wise appertaining or held to belong or be appurtenant thereto or used or enjoyed therewith and the full benefit and advantage of all insurances effected or hereafter to be effected thereon and all the estate, right, title, interest, property, claim and demand whatsoever of the 1st defendant of, in, to, upon, or out of the said property and premises.

Deputy Fiscal's Office,
Nuwara Eliya, April 4, 1938.

D. G. L. Misso,
Additional Deputy Fiscal.

Southern Province.

In the District Court of Galle.

K. M. R. M. Ramanathan Chettiar of Galle. Plaintiff.
No. 35,940.

D. W. Subasinghe and another of Galle. Defendants.

NOTICE is hereby given that on Monday, May 16, 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 defendants in the following property, viz. :—

1. All that the estate plantations and premises called and known as Kurakkan Pittuwa, and of Delgahawatta

alias Meepagewatta *alias* Kosgahakumburawatta, all lying contiguous to each other, situated at Godakanda or Halawala, within the Four Gravets of Galle in the District of Galle, Southern Province; and bounded on the north by Godagewatta, land claimed by Don Simon de Silva Godage Appuhamy, north-east by land claimed by Hirimbure Radage Selenchiya, east by land claimed by Mohammod Haniffa Amsuruvava, south by land claimed by Bastian de Silva Atapattu Aratchi and Kahatagahadeniya, and west by lot 4; and containing in extent 4 acres and 22.79 perches.

2. All that the estate, plantations and premises called and known as Mountain Hall estate, situate at Ettiligoda, within the Four Gravets aforesaid; and bounded on the north by the estate road branching minor road, Ambalamakumbura and Kahatagahadeniyawatta, east by Kahatagahadeniyawatta, a field, and part of Kahatagahadeniyawatta *alias* Medirikoratuwa and Mahabotuwanewatta, south by another portion of the same estate composed of Pittaniyawatta and Delgahawatta, west by Kandewalakumburawatta, Kandewalakumbura part of Ambalamekumbura and Moris road; and containing in extent 12 acres 3 roods and 20/69 perches.

Writ amount Rs. 1,185.80, with further interest on Rs. 1,100 at 18 per cent. per annum from June 18, 1937, up to October 18, 1937, and thereafter with legal interest on the aggregate amount till payment in full and Rs. 73.92 for costs, less Rs. 150 paid.

Fiscal's Office,
Galle, April 8, 1938.

T. D. S. DHARMASENA,
Deputy Fiscal.

Northern Province.

In the District Court of Jaffna.

Suppar Vallipuram of Maviddapuram Plaintiff.
No. 12,548. Vs.

(1) Kanapathipillai Sinnathamby, and (2) Theivanaipillai, widow of Pillainar Velupillai of Vemankamam Defendants.

NOTICE is hereby given that on Saturday, May 7, 1938, at 2.30 in the afternoon will be sold by public auction at the premises the right, title, and interest of the said defendants in the following property for the recovery of Rs. 1,919 with interest thereon at 9 per cent. per annum from January 6, 1938, till payment in full and poundage and charges, viz. :—

S. R. A. 3.—An undivided $\frac{1}{3}$ share of a piece of land situated at Tellipalai East in Tellipalai parish, Valikamam North division of the Jaffna District, Northern Province, called Similampathai, in extent 8 lachams varagu culture and 3 kulies with the share of well in the eastern boundary land and cultivated and spontaneous plants; and bounded on the east by Muttar Sinnathamby, north by lane, and Velupillai Appukuddy, west by Kailayar Sinnathamby, and south by Murugan Appan and others.

S. R. B. 1.—An undivided $\frac{2}{3}$ share of a piece of land, situated at Kadduvan in ditto, called Kilan, in extent 15 $\frac{1}{2}$ lachams varagu culture; and bounded on the east by Thamban Sadayan and others, and Thamban Raman, north by Sinnapodian Kanthan, west by Kanapathipillai Sinnathamby and Theivanaipillai, widow of Velupillai, and south by Kanthan Eliyathamby and others.

2. An undivided $\frac{2}{3}$ share of a piece of land, situated at ditto, called Kilan, in extent 40 lachams varagu culture; and bounded on the east by the heirs of Alagar Soma-suntharam and others, north by Kathirgamar Kanthar, west by Sithamparam, wife of Vairavapillai and Sadaichy, wife of Vinasy, and south by Alvy, wife of Nanny, and shareholders.

3. An undivided $\frac{2}{3}$ share of a piece of land situated at ditto called Neelipathy, in extent 13 $\frac{1}{4}$ lachams varagu culture; and bounded on the east by Kanapathipillai Sinnathamby, Theivanaipillai, widow of Pillainar Velupillai, north by Thangammah, wife of Velupillai, west by Mailu Kandiah and others, and south by Kandar Eliyathamby and others.

4. An undivided $\frac{1}{3}$ share of a piece of land situated at ditto, called Kaddupulam, in extent 23 lachams varagu culture and 14 $\frac{5}{8}$ kulies; and bounded on the east by Saravanamuttu Kumarasamy, north by Sankampalam Thillaiampalam, west by Sinnathamby Velupillai and others, and south by Kanapathipillai Sinnathamby and Theivanaipillai, widow of Pillainar Velupillai.

5. An undivided $\frac{1}{3}$ share of a piece of land situated at ditto called Kaddupulam, in extent 23 $\frac{3}{4}$ lachams varagu culture; and bounded on the east by pond and Saravanamuttu Kumarasamy, north by Kanapathipillai Sinnathamby and Theivanaipillai, widow of Pillainar Velupillai, west by the heirs of Subramaniam Aseervatham and others, and south by Theivanaipillai, widow of Sabapathy, and the property belonging to others.

6. An undivided $\frac{5}{12}$ share of a piece of land situated at ditto called Periyaseema, in extent 30 lachams varagu culture with palmyras; and bounded on the east, north, and west by lane, and south by Sethai, wife of Vairamuttu, and the property belonging to others.

7. An undivided $\frac{1}{3}$ share of a piece of land situated at ditto called Katiampam and Periyaseema, in extent 3 $\frac{1}{4}$ lachams varagu culture with palmyras; and bounded on the east and north by Kanapathipillai Sinnathamby and Theivanaipillai, widow of Pillainar Velupillai, west by Kanapathipillai Sinnathamby and Theivanaipillai, widow of Pillainar Velupillai, and Kathiran Vally and others, and south by Kathy, wife of Swany.

Fiscal's Office,
Jaffna, April 9, 1938.

S. TURAIYAPPAH,
for Fiscal.

NOTICES IN TESTAMENTARY ACTIONS.

In the District Court of Kalutara.

Order Nisi declaring Will proved, &c.

Testamentary In the Matter of the Estate of the late Jurisdiction. Kannangerakorallage Don Nicholas, No. 2,740. Peace Officer, deceased, of Pahurumulla in Bentota.

THIS matter coming on for disposal before M. A. Samarakoon, Esq., District Judge of Kalutara, on January 29, 1937, in the presence of Messrs. Fernando & Goonetilleka, Doctors, on the part of the petitioner, Kannangerakorallage Don Peter Kannangera of Paiyagala; and the affidavit of said petitioner dated July 9, 1936, having been read: It is ordered that the will of Kannangerakorallage Nicholas, Peace Officer of Pahurumulla, deceased, dated November 6, 1926, and bearing No. 823 and now deposited in this court, be and the same is hereby declared proved, unless the respondents, viz., (1) Kannangerakorallage Dona Janalawathie Kannangera of Paiyagala, (2) ditto Ransan Kannangera of Bentota, (3) ditto Dona Vinilawathie Kannangera of Kalegana, Galle, and (4) ditto Dona Wansalawathie Kannangera of Kalegana, Galle, or any other person or persons interested shall, on or before March 19, 1937, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said Kannangerakorallage Don Peter Kannangera of Paiyagala is the executor named in the said will, and that he is entitled to have probate of the same issued to him accordingly, unless the respondents or any other person or persons interested shall, on or before March 19, 1937, show sufficient cause to the satisfaction to the contrary.

It is further declared that the said 2nd respondent be and he is hereby appointed guardian *ad litem* over the said 4th respondent, who is minor, for all the purposes of this action, unless sufficient cause be shown to the contrary by the respondents on March 19, 1937.

M. A. SAMARAKOON,
January 29, 1937. District Judge.

Date of showing cause is extended to October 14, 1937.

August 19, 1937. W. SANSONI,
District Judge.

Date of showing cause is extended to February 24, 1938.

January 13, 1938. W. SANSONI,
District Judge.

Date of showing cause is extended to May 26, 1938.

April 7, 1938. W. SANSONI,
District Judge.

30 In the District Court of Kandy.
Order Nisi.

Testamentary In the Matter of the Intestate Estate and
Jurisdiction. Effects of Jayasundara Mudiyansele
No. T. 19. Punchi Mahatmayo of Wataddara,
deceased.

Pahala Ekiriyegedera Utku Banda Disanayake of
Wataddara in Tispane korale, Kotmale. Administrator.

And

(1) Pahala Ekiriyegedera Heera Disanayake, (2)
Dingiri Menike, (3) Rammunike, all of Wataddara
aforesaid Respondents.

THIS matter coming on for disposal before Reginald
Felix Dias, Esq., District Judge, Kandy, on March 3, 1938,
in the presence of Mr. C. H. Dunuwille, Proctor, on the part
of the petitioner, Pahala Ekiriyegedera Utku Banda
Disanayake; and the affidavit of the said petitioner
dated January 29, 1938, having been read: It is ordered
that the petitioner be and he is hereby declared entitled,
as the husband of the above-named deceased, to have
letters of administration to the estate of the deceased
issued to him, unless the respondents or any other person
or persons interested shall, on or before April 7, 1938, show
sufficient cause to the satisfaction of this court to the
contrary.

March 3, 1938. R. F. DIAS,
District Judge.

Date for showing cause is extended for May 19, 1938.

April 7, 1938. R. F. DIAS,
District Judge.

In the District Court of Kandy.

Testamentary In the Matter of the Intestate Estate and
Case effects of Kumburegama Walauwe Wijer-
No. T. 20. ratne, Banda Kumburegama of Mara-
wanagoda, deceased.

Punchi Mahatmayo Ranawana Kumburegama, of
Marawanagoda in Medasiyapattu of Haris-
pattu Petitioner.

And

(1) L. B. Kumburegama in Medasiyapattu aforesaid,
(2) Seelawathie Menike, (3) Gunaratne Menike, (4)
P. B. Ratnayake, (5) Punchi Mahatmayo, (6) Heera
Mahatmayo, (7) Wimalaratne Banda, (8) Sena-
ratne Banda, (9) Loku Mahatmayo, all of Marawa-
nagoda aforesaid Respondents.

THIS matter coming on for disposal before Reginald
Felix Dias, Esq., District Judge, Kandy, on March 31, 1938,
in the presence of Mr. B. H. Dunuwille, Proctor, on the
part of the petitioner, Punchi Mahatmayo Ranawana
Kumburegama; and the affidavit of the said petitioner
dated January 27, 1938, having been read:

It is ordered that the petitioner be and she is hereby
declared entitled, as the widow of the above-named
deceased, to have letters of administration to the estate of
the deceased issued to her, unless the respondents or any
other person or persons interested shall on or before May
19, 1938, show sufficient cause to the satisfaction of this
court to the contrary.

March 31, 1938. R. F. DIAS,
District Judge.

In the District Court of Nuwara Eliya holden at Hatton.

Order Nisi.

Testamentary In the Matter of the Intestate Estate and
Jurisdiction. Effects of Nana Mohamed Hussain
No. 201. Saibo (deceased) of Valoothoor Ayyam-
pet, Tanjore, South India, deceased.

Abdul Wahab, son of the above-named Nana Mohamed
Hussain Saibo (deceased) of Maskeliya Petitioner.

And

(1) Hathija Beebi, widow of the above-named Nana
Mohamed Hussain Saibo (deceased), (2) Julaiga
Beebi, wife of Muna Ameer Batcha Saibo, both of
Valoothoor Ayyampet, Tanjore District, South
India, (3) Abdul Raheem of Talawakelle; (4)
Raheema Beebi, (5) Mohamed Yacob and (6)
Mohamed Haniff, minors all of Ayyampet, Tanjore,
South India; the 4th, 5th, and 6th respondents are
minors appearing by their guardian *ad litem* the 1st
respondent Respondents.

THIS matter coming on for disposal before A. R. Mac-
donald, Esq., District Judge of Hatton, on March 23, 1938,
in the presence of Mr. Sinniah Sellathurai, Proctor, on the
part of the petitioner, Abdul Wahab, son of Nana Mohamed

Hussain Saibo (deceased); and the affidavit of the said
petitioner dated March 16, 1938, and the order of the
Supreme Court dated March 14, 1938, having been read:

It is ordered that the petitioner be and he is hereby
declared entitled, as the eldest son of the above-named
deceased, to have letters of administration to his estate
issued to him, unless the respondents—(1) Hathija Beebi,
widow of the above-named Nana Mohamed Hussain
Saibo, deceased, (2) Julaiga Beebi, wife of Muna Ameer
Batcha Saibo, (3) Abdul Raheem, (4) Raheema Beebi,
(5) Mohamed Yacob, and (6) Mohamed Haniff of above-
named or any other person or persons interested shall,
on or before April 19, 1938, show sufficient cause to the
contrary.

It is further ordered that the 1st respondent be and she
is hereby appointed guardian *ad litem* over the minors, the
4th, 5th, and 6th respondents above named, for the purpose
of this action, unless the 4th, 5th, and 6th respondents
shall, on or before April 19, 1938, show sufficient cause to
the contrary.

March 23, 1938. A. R. MACDONALD,
District Judge.

29 In the District Court of Nuwara Eliya.
Order Nisi declaring Will proved.

Testamentary In the Matter of the Last Will and
Jurisdiction. Testament of Ponniah Edwards of
No. 317. Pundaluoya, deceased.

Venasitambi Sinnathurai of the Eastern Bank, Ltd.,
Colombo Petitioner.

THIS matter coming on for disposal before Allan Ronald
Macdonald, Esq., District Judge, Nuwara Eliya, on
March 29, 1938, in the presence of Mr. V. Ponnusamy,
Proctor, on the part of the petitioner above named; and
the affidavits of the said petitioner dated March 27,
1938, (2) of the attesting notary dated March 26, 1938,
having been read:

It is ordered that the last will of Ponniah Edwards,
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 one of the executors named in the said will
and that he is entitled to have probate thereof issued to
him accordingly, unless any person or persons interested
shall, on or before April 29, 1938, show sufficient cause
to the satisfaction of this court to the contrary.

It is hereby also ordered that the right of the other
executor, viz.:—Puthukunam Aiyavu Rajaratnam of
Pundaluoya to prove the said last will and obtain probate
thereof is hereby reserved.

March 29, 1938. A. R. MACDONALD,
District Judge.

19 In the District Court of Galle.

Order Absolute declaring Will proved.

Testamentary In the Matter of the Last Will and
Jurisdiction. Testament of Grace Hettiwattege,
No. 7,806. deceased, of Old Cripp's road, Galle.

THIS matter coming on for disposal before N. M.
Bharucha, Esq., District Judge of Galle, on March 4, 1938,
in the presence of Mr. G. D. Jayasundere, Proctor, on the
part of the petitioner, Albert Hettiwattege; and the
affidavit of the said petitioner and the attesting notary
and witnesses both dated March 3, 1938, having been read:

It is ordered that the will of Grace Hettiwattege, deceased,
dated July 24, 1937, and now deposited in this court, be
and the same is hereby declared proved. It is further
declared that the said petitioner is the executor named in
the said will and that he is entitled to have probate of the
same issued to him accordingly.

March 4, 1938. N. M. BHARUCHA,
District Judge.

In the District Court of Matara.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of
Jurisdiction. Sewis Abraham Amaradiwakara of
No. 3,962. Denepitiya, deceased.

Dona Cathona Senerath Abeygunewardena of Dene-
pitiya Petitioner.

(1) Richard Daineris Amaradiwakara, (2) Matilda
Amaradiwakara, (3) Somawath Amaradiwakara, (4)
Philip Reginald Amaradiwakara, (5) Tudor Arem
Amaradiwakara, all of Denepitiya Respondents.

THIS matter coming on for disposal before Charles
Edwin Augustus Samarakkody, Esq., District Judge of

Matara, on June 30, 1937, in the presence of Mr. A. Gunaratna, Proctor, on the part of the petitioner above named; and the affidavit of the said petitioner dated May 10, 1937, having been read: It is ordered that the petitioner above named, he and she is hereby declared entitled to, as widow of the deceased above named, to have letters of administration to the estate of the deceased issued to her, unless the respondents above named, or any other person or persons interested shall, on or before August 25, 1937, show sufficient cause to the contrary.

June 30, 1937. C. E. A. SAMARAKKODY,
District Judge.

Date for showing cause extended to October 21, 1937.

August 25, 1937. C. E. A. SAMARAKKODY,
District Judge.

Date for showing cause extended to December 17, 1937.

October 21, 1937. C. E. A. SAMARAKKODY,
District Judge.

Date for showing cause extended to February 25, 1938.

December 17, 1937. JAMES JOSEPH,
District Judge.

Date for showing cause extended to May 2, 1938.

February 25, 1938. JAMES JOSEPH,
District Judge.

In the District Court of Badulla.

Order Nisi.

Testamentary In the Matter of the Estate of Don David No. B 1,004. Abeysekera of Uva Dickarawa estate, Bandarawela; deceased.

(1) Somawathie Wijekoon (*nee* Abeysekera) and husband (2) Arthur Henry Wijekoon of Uva Dickarawa estate in Bandarawela Petitioners.

(1) Karunawathie Abeysekera of Uva Dickarawa estate in Bandarawela, (2) Kalyanawathie Abeysekera, Aet 16 years, and (3) ~~Thirudika~~ Abeysekera, Aet 14 years, both of Uva Dickarawa estate, minors, by their guardian *ad litem* (4) A. C. Wijekoon of Badulla Respondents.

THIS matter coming on for disposal before D. H. Balfour, Esq., District Judge of Badulla, on March 30, 1938, in the presence of Messrs. H. J. & W. L. Pinto, Proctors, on the part of the petitioners above named, and their petition dated March 30, 1938, and affidavit dated March 23, 1938, having been read: It is ordered that (a) the 4th respondent above named be and he is hereby appointed guardian *ad litem* of the 2nd and 3rd respondents above named, who are minors, to represent them for all the purposes of this action, and (b) the petitioners be and they are hereby declared entitled to administer the estate of the deceased above named, and to have letters of administration issued to them accordingly, unless the respondents above named or any persons lawfully interested therein shall, on or before April 26, 1938, show sufficient cause to the satisfaction of this court to the contrary.

April 2, 1938.

D. H. BALFOUR,
District Judge.

PASSED ORDINANCES.

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

No. 13 of 1938.

No. of 15 1898. An Ordinance to amend the Criminal Procedure Code, 1898.

[Assented to by His Majesty the King: See Proclamation dated April 11, 1938, published in Government Gazette No. 8,364 of April 12, 1938.]

A. CALDECOTT.

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 Criminal Procedure Code (Amendment) Ordinance, No. 13 of 1938, and shall come into operation on such date as the Governor shall appoint by Proclamation in the Gazette.

Amendment of section 126A of Ordinance No. 15 of 1898.

2 Section 126A of the Criminal Procedure Code, 1898, (hereinafter referred to as "the principal Ordinance"), is hereby amended in sub-section (2) thereof, as follows:—

(1) by the substitution for the words "may from time to time authorize" of the words "may, from time to time, by warrant addressed to the Fiscal of a province and to the superintendent of any prison in that province, authorize"; and

(2) by the addition at the end of that sub-section of the following:—

"The provisions of section 289A shall apply to every such warrant."

Amendment of section 148 (1) of the principal Ordinance.

3 Section 148 of the principal Ordinance is hereby amended in sub-section (1) thereof, as follows:—

(1) by the substitution for paragraph (a) of that sub-section of the following new paragraph:

"(a) On a complaint being made orally or in writing to a Magistrate of such court that an offence has been committed which such court has jurisdiction either to inquire into or try:

Provided that such a complaint if in writing shall be drawn and countersigned by a pleader and signed by the complainant; or"; and

(2) in paragraph (b) thereof, by the substitution for the words "a Local Board servant" of the words "a servant of a Local Board or District Council".

4 Section 149 of the principal Ordinance is hereby repealed and the following new section is substituted therefor :—

Repeal of section 149 of the principal Ordinance and substitution of new section therefor.

149. In cases where the offence complained of is one of rape, carnal intercourse with a young girl, unnatural offence, or hurt of a serious nature or hurt whether serious or not alleged to have been caused by an instrument for stabbing or cutting, the Magistrate shall cause the person who is alleged to have been the subject of such rape, carnal intercourse, unnatural offence, or hurt, and the person accused of such rape, carnal intercourse, or unnatural offence to be forthwith examined by a competent medical practitioner if he has not already been so examined.

Medical examination of complainant and accused in cases of rape, &c.

5 Sections 150 and 151 of the principal Ordinance are hereby repealed and the following sections are substituted therefor :—

Repeal of sections 150 and 151 of the principal Ordinance and substitution of new sections therefor.

150. (1) Where the offence alleged in any proceedings instituted under section 148 (1) (a) or section 148 (1) (b) is an indictable one the Magistrate may, although no person by name is accused of having committed such offence, examine on oath the complainant or informant and any other person who may appear to the Magistrate to be able to speak to the facts of the case. Such examination may if the Magistrate thinks fit be held in private.

Procedure in certain cases where accuse is unknown.

(2) Every examination held by the Magistrate under sub-section (1) shall be reduced into writing and after being read over and if need be interpreted to the person examined shall be signed by him and also by the Magistrate and dated.

(3) If, after such examination, there is in the opinion of the Magistrate sufficient ground for proceeding against any person, he shall issue process against such person in the manner provided by section 151.

151. (1) Where proceedings have been instituted under head (a) or head (b) or head (c) of section 148 (1) and the Magistrate is of opinion that there is sufficient ground for proceeding against some person who is not in custody—

Issue of process.

(a) if the case appears to be one in which according to the fourth column of the second schedule a summons should issue in the first instance, he shall, subject to the provisions of section 62, issue a summons for the attendance of such person ;

(b) if the case appears to be one in which according to that column a warrant should issue in the first instance, he shall issue a warrant for causing such person to be brought or to appear before the court at a certain time :

Provided that—

(i) the Magistrate may in any case, if he thinks fit, issue a summons in the first instance instead of a warrant ;

(ii) in any case under head (a) or head (b) of section 148 (1), the Magistrate shall, before issuing a warrant, and may, before issuing a summons, examine on oath the complainant or some material witness or witnesses ; and

(iii) in any case under head (c) of section 148 (1), the Magistrate shall, before issuing process, record a brief statement of the facts which constitute his means of knowledge or of the grounds of his suspicion, as the case may be.

(2) Where proceedings have been instituted under head (d) of section 148 (1), the Magistrate shall forthwith examine on oath the person who has brought the accused before the court and any other person who may be present in court able to speak to the facts of the case.

(3) Where proceedings have been instituted under head (e) or head (f) of section 148 (1), the Magistrate shall issue a summons for the attendance of the person named in the warrant or complaint, or a warrant for causing such person to be brought or to appear before the court at a certain time, according as the fourth column of the second schedule provides that the case is one in which a summons or a warrant should issue in the first instance.

6 The two following sections shall be inserted immediately after section 151 of the principal Ordinance and shall have effect as sections 151A and 151B, respectively, of that Ordinance :—

Insertion of new sections immediately after section 151 of the principal Ordinance.

151A. Every summons or warrant issued under section 151 shall contain a statement of the particulars of the

Contents of summons or warrant.

	<p>offence charged and in the case of a summons shall require the accused to appear with his witnesses (if any) at a time and place therein specified to answer the charge therein set forth.</p>
Examination under section 151 to be recorded.	<p>151B. Every examination held by the Magistrate under section 151 shall be recorded in the manner provided in section 150 (2).</p> <p>Such examination may if the Magistrate thinks fit be held in private.</p>
Amendment of section 153 of the principal Ordinance.	<p>7 Section 153 of the principal Ordinance is hereby amended as follows :—</p> <p>(1) by the substitution for the words “ the examination provided by section 149 (1) ”, of the words “ an examination ”; and</p> <p>(2) by the addition at the end of that section of the following :—</p> <p>“ Such examination shall be recorded in the manner provided in section 150 (2).”.</p>
Repeal of section 155 to section 165 of the principal Ordinance and substitution of new sections therefor.	<p>8 Sections 155 to 165 of the Criminal Procedure Code, 1898, are hereby repealed and the following sections are substituted therefor :—</p>
Preliminary inquiry.	<p>155. When the accused appears or is brought before the Police Court the Magistrate shall hold a preliminary inquiry according to the provisions hereinafter contained.</p>
Accused to be informed of charge.	<p>156. A Magistrate conducting a preliminary inquiry shall at the commencement of such inquiry read over to the accused the charge or charges in respect of which the inquiry is being held, but upon such reading over the accused shall not be required to make any reply thereto; if any such reply is made, it shall not be recorded by the Magistrate; nor shall any such reply be admissible in evidence against the accused.</p>
Depositions.	<p>157. (1) The Magistrate shall then take, in the presence of the accused and in the manner hereinafter provided, the statements on oath of those who know the facts and circumstances of the case, and put them in writing (called the depositions).</p> <p>(2) The accused may put questions to each witness produced against him and the answer of the witness thereto shall be part of his deposition.</p> <p>(3) If the accused is not represented by an advocate or proctor the Magistrate shall, at the close of the examination of each witness for the prosecution, ask the accused whether he wishes to put any questions to that witness.</p>
Variance between charge and evidence.	<p>158. (1) Any variance between facts stated in the charge read over to the accused under section 156 and the evidence adduced in support thereof as to the time or place at which the offence or act is alleged to have been committed shall not be deemed material if it be proved, in the case of the time, that the charge was in fact laid within the time limited by law for laying the same and, in the case of the place, that the jurisdiction of the Court is not ousted thereby.</p> <p>(2) Any variance in any other respect between the facts stated in the charge and the evidence adduced in support thereof shall not be material :</p> <p>Provided that the accused shall not be convicted of any offence other than that with which he has been charged unless such other offence is one of which he may be lawfully convicted under the provisions of this Code upon the trial of the offence with which he is charged.</p> <p>(3) Where any variance as is mentioned in this section appears to the Magistrate to be such that the accused has been thereby deceived or misled, the Magistrate may upon such terms as he shall think fit adjourn the inquiry to some future day.</p> <p>(4) Upon any such variance appearing the Magistrate may make such amendment of the charge as he deems fit and may permit any witness to be recalled and further questioned upon any matters relevant to the variance or amended charge.</p>
Charges to be read to accused after close of prosecution case.	<p>159. After the examination of the witnesses called on behalf of the prosecution and provided that the Magistrate does not consider that the case should be dealt with in accordance with the provisions of section 162, the Magistrate shall read the charge to the accused and explain the nature thereof in ordinary language and inform him that he has the right to call witnesses and, if he so desires, to give evidence on his own behalf.</p>

160. (1) The Magistrate shall then address to the accused the following words or words to the like effect :—

“ Do you wish to say anything in answer to the charge ?
You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and put in evidence at your trial.”

Provisions as to taking statement of accused.

(2) Before the accused makes any statement in answer to the charge, the Magistrate shall state to him and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may be held out to him to induce him to make any admission or confession of his guilt, but that whatsoever he then says will be given in evidence at his trial, notwithstanding the promise or threat.

(3) Any statement the accused makes in answer to the charge shall be recorded in the manner provided by section 302.

161. (1) Immediately after complying with the requirements of section 160 relating to the statement of the accused, and whether the accused has or has not made a statement, the Magistrate shall ask the accused whether he desires to give evidence on his own behalf and whether he desires to call witnesses.

Evidence for the defence.

(2) If the accused in answer to the question states that he wishes to give evidence but not to call witnesses, the Magistrate shall proceed to take forthwith the evidence of the accused, and after the conclusion of the evidence of the accused, his advocate or proctor (if the accused is represented) shall be heard on his behalf, if he so desires.

(3) If the accused in answer to the question states that he desires to give evidence on his own behalf and to call witnesses, or to call witnesses only, the Magistrate shall proceed to take either forthwith, or, if a speech is to be made by an advocate or proctor on behalf of the accused, after the conclusion of the speech, the evidence of the accused, if he desires to give evidence himself, and of any witness called by him who knows anything relating to the facts and circumstances of the case or anything tending to prove the innocence of the accused.

(4) If the accused states that he has witnesses to call, but that they are not present in court, and the Magistrate is satisfied that the absence of such witnesses is not due to any fault or neglect of the accused, and that there is a likelihood that they could, if present, give material evidence on behalf of the accused, the Magistrate may adjourn the inquiry and issue process or take other steps to compel the attendance of such witnesses.

(5) Evidence given by the accused or any such witness as aforesaid shall be taken down in writing and the provisions of section 157 shall apply in the case of witnesses for the defence as they apply in the case of witnesses for the prosecution, except that the Magistrate shall not bind over to attend the trial any witness who is a witness merely to the character of the accused.

162. (1) If the Magistrate considers that the evidence against the accused is not sufficient to put him on his trial, the Magistrate shall forthwith order him to be discharged as to the particular charge under inquiry ; but such discharge shall not be a bar to any subsequent charge in respect of the same facts :

Discharge.

Provided that nothing contained in this section shall prevent the Magistrate from either forthwith or after such adjournment of the inquiry as may seem expedient in the interests of justice, proceeding to investigate any other charge upon which the accused may have been summoned or otherwise brought before it, or which, in the course of the charge so dismissed as aforesaid, it may appear that the accused has committed.

(2) Nothing in this section shall be deemed to prevent the Magistrate from discharging the accused at any stage of the case if for reasons (to be recorded by him) he considers the complaint to be groundless.

163. (1) If the Magistrate considers the evidence sufficient to put the accused on his trial, the Magistrate shall commit him for trial.

Commitment for trial.

(2) If the offence disclosed by the evidence is, according to the second schedule, triable by the Supreme Court only, he shall commit the accused for trial before the Supreme Court, but if the offence is according to that schedule triable by a District Court as well as by the Supreme Court, he shall, in his discretion, commit the accused for trial before the Supreme Court or the District Court.

Where
evidence
contradictory.

164. Where there is a conflict of evidence, the Magistrate shall consider the evidence to be sufficient to put the accused on his trial if the evidence against him is such as, if uncontradicted, would raise a probable presumption of his guilt, notwithstanding that it is contradicted in material points by evidence in favour of the accused, unless the Magistrate, for reasons recorded on the proceedings, shall see fit to deviate from this rule.

Accused's
witnesses.

165. (1) The Magistrate shall at the time of committing the accused for trial require the accused to state orally there and then the names of persons (if any) whom he wishes to be required to give evidence at his trial, distinguishing between those whom he proposes to call to speak to facts and those who are merely to speak to character.

(2) The Magistrate shall prepare a list of such of the witnesses named by the accused under sub-section (1) as have not already given evidence before him and shall direct the Fiscal to issue a notice on each such witness requiring him to appear before the court of trial on the date specified in the notice :

Provided, however, that the Magistrate may exclude from such list the name of any witness if he is of opinion that there are no reasonable grounds for believing that the evidence of such witness is material.

(3) Where any witness on whom a notice under sub-section (2) has been served fails to appear in the court of trial as directed by such notice, that notice shall, for the purposes of the application of sections 62 and 63, be deemed to be a summons which the court of trial is empowered to issue and the provisions of those sections shall apply accordingly.

(4) Service of any notice under this section shall be effected in the manner provided for the service of summons in sections 45 and 46 and the provisions of section 49 shall apply accordingly for the purpose of proving such service :

Provided that if service cannot be effected in such manner by the exercise of due diligence, the notice shall be affixed to some conspicuous part of the house or homestead in which the witness ordinarily resides, and in such case the notice shall be deemed to have been duly served.

Insertion of new
sections
immediately after
section 165 of the
principal Ordinance.

9 The six following new sections shall be inserted immediately after section 165 of the principal Ordinance and shall have effect as sections 165A, 165B, 165c, 165D, 165E and 165F respectively of that Ordinance :—

Material
witnesses to be
bound over to
appear.

165A. (1) When the Magistrate commits the accused for trial he shall require every material witness for the prosecution or defence who has appeared before him and given evidence and who has not already been bound over to execute a bond with or without sureties for his appearance to give evidence at the trial and, if required, at any further examination concerning the charge against the accused which may be held by the direction of the Attorney-General ; and for the like purpose it shall be lawful for any Magistrate who examines any witness on commission under the provisions hereinafter contained to require such witness so examined to execute a bond with or without sureties as such Magistrate may determine.

(2) The Magistrate may at any stage of the inquiry require any witness to execute such bond as in the last sub-section mentioned for appearance at any further stage of the proceedings either in that court or in the higher court, in case the accused be committed for trial. It shall not be necessary to specify such higher court in the bond, but the obligor shall be bound on receiving reasonable notice to attend at the trial in whatever court the accused may be tried.

(3) If a witness refuses or neglects to execute such bond the Magistrate may commit him to prison until such bond is duly executed or until the trial, when he shall be sent in custody to the court of trial.

(4) The Magistrate shall endorse on the warrant of committal the names of all persons who have been bound over under this section or who having refused to be bound over have been committed to prison.

(5) Every person who executes such bond shall give to the Magistrate an address at which all notices respecting the further proceedings in the case may be left for him, and any notice left at such address for him shall (until the contrary be proved) be deemed to have been received by him.

165B. On committing the accused for trial before any higher court the Magistrate shall ask the accused to elect from which of the respective panels of jurors the jury shall be taken for the trial in the event of the trial being held before the Supreme Court, and the Magistrate shall record such election if made. The accused so electing shall, if the trial is held before the Supreme Court be bound by and may be tried according to his election, subject however in all cases to the provisions of section 224.

Accused to elect panel of jurors.

165C. The Magistrate shall if the accused is committed for trial record whether the accused is on bail or in custody and certify under his hand the record of the inquiry.

Magistrate to certify record.

165D. When the accused has been committed for trial he shall, if he demands it at a reasonable time before the trial, be furnished by the officer in charge of the record with a copy of the record or of any part thereof on payment of six cents for a hundred words :

Accused entitled to copy of evidence.

Provided that the Magistrate or, if the record has been transmitted to the court of trial, any judge of that court, may if he thinks fit in any case, direct the officer in charge of the record to furnish such copy to the accused free of cost.

165E. (1) When the Magistrate commits the accused for trial he shall, subject to the provisions of this Code regarding the taking of bail, by warrant addressed to the Fiscal of a province and to the Superintendent of any prison in that province, commit the accused to the custody of the said Fiscal until and during the trial, and shall forthwith transmit the record of the inquiry together with all documents produced in evidence to the court of trial, and shall also forward to the Attorney-General a copy of the record of the inquiry certified under his hand. All productions other than documentary evidence shall be forwarded to the Fiscal to be produced by him at the trial.

Record to be forwarded to court of trial, productions to Fiscal, and certified copy of record to Attorney-General.

(2) The provisions of section 289A shall apply to every warrant issued under this section.

165F. (1) If after the receipt by him of the certified copy of the record of an inquiry, the Attorney-General is of opinion that the case is one which should be tried upon indictment before the Supreme Court or a District Court, an indictment shall be drawn up and when signed in accordance with the provisions of section 186 (1) shall be forwarded to the court of trial selected by the Attorney-General to be filed in that court. The fact that the indictment has been so signed, forwarded, and filed shall be equivalent to a statement that all conditions required by law to constitute the offence charged and to give such court jurisdiction have been fulfilled in the particular case.

Presentation and service of indictments.

(2) Where the Attorney-General in any case forwards an indictment to a court other than the court to which the accused has been committed by the Magistrate, the Registrar or the Secretary, as the case may be, of the court to which the record was forwarded by the Magistrate under section 165E, shall, at the request of the Attorney-General, transmit such record to the court selected by the Attorney-General under sub-section (1) for the trial of the accused.

(3) When the Attorney-General forwards an indictment to the court of trial he shall at the same time forward to the Fiscal of the province in which is situate the court of the committing Magistrate a copy or copies of the indictment for service on the accused or each of the accused who will be tried upon that indictment. The Fiscal shall forthwith and at least fourteen days before the day specified for trial serve or cause to be served on the accused the copy or copies of the indictment so forwarded to him by the Attorney-General and shall make return of such service to the court of trial and to the Attorney-General or to any officer appointed by the Attorney-General to represent him.

(4) The Fiscal shall together with the indictment, or as soon as possible after the service thereof, serve or cause to be served on each accused a notice specifying the date fixed for the trial of that accused before the Supreme Court or the District Court, as the case may be.

(5) Service on an accused of any indictment or notice of trial under this section shall be effected in the manner prescribed for the service of summons in sections 45 and 46 and the provisions of section 49 shall apply accordingly for the purpose of proving such service :

Provided that if service cannot be effected in such manner by the exercise of due diligence, the indictment or notice shall be affixed to some conspicuous part of the

house or homestead in which the accused ordinarily resides, and in such case the indictment or notice shall be deemed to have been duly served.

Amendment of section 167 of the principal Ordinance.

10 Section 167 of the principal Ordinance is hereby amended by the repeal of sub-sections (7) and (8) thereof.

Insertion of new section 183A in the principal Ordinance.

11 The following new section shall be inserted immediately after section 183 of the principal Ordinance and shall have effect as section 183A of that Ordinance :—

Conviction of an attempt to commit an offence, though attempt is not separately charged.

183A. When a person is charged with an offence and it is proved that he attempted to commit that offence and that in such attempt he did an act towards the commission of that offence he may be convicted of an attempt to commit that offence although he was not charged with such attempt :

Provided that nothing in this section shall be deemed to authorize the conviction of any person for an attempt to commit an offence unless an attempt to commit that offence is made punishable by any written law for the time being in force in this Island.

Amendment of section 187 (1) of the principal Ordinance.

12 Section 187 of the principal Ordinance is hereby amended in sub-section (1) of that section, by the substitution for the words “ by section 149 (4), if he does not discharge the accused under section 151 (1),” of the following :—

“ by section 151 (2), if he is of opinion that there is sufficient ground for proceeding against the accused,”.

Amendment of section 189 of the principal Ordinance.

13 Section 189 of the principal Ordinance is hereby amended as follows :—

- (1) in sub-section (1) of that section, by the substitution, for all the words from “ read over ” to “ further evidence ”, of the words “ take in manner hereinafter provided all such evidence ”; and
- (2) in sub-section (2) of that section, by the omission of the words “ any person whose evidence has been recorded under section 150 and ”.

Amendment of section 192 of the principal Ordinance.

14 Section 192 of the principal Ordinance is hereby amended as follows :—

- (1) in sub-section (1) by the substitution for all the words from “ shall forward the record ” to the end of that sub-section, of the words—
“ shall commit the accused for trial to the Supreme Court or to the District Court, as to him may seem fit, and shall follow the procedure prescribed in Chapter XVI in regard to the steps to be taken after the commitment of an accused for trial.”; and
- (2) by the repeal of sub-section (2) of that section and by the substitution of the following new sub-section therefor :—

“ (2) The Attorney-General may in such a case exercise any of the powers vested in him by this Code in a case where a Magistrate has committed an accused for trial and forwarded to the Attorney-General a certified copy of the record of an inquiry held under Chapter XVI.”.

Amendment of section 199 of the principal Ordinance.

15 Section 199 of the principal Ordinance is hereby amended by the substitution for the expression “ Local Board ”, wherever that expression occurs in that section, of the words “ Local Board or District Council ”.

Amendment of section 203 (1) of the principal Ordinance.

16 Section 203 of the principal Ordinance is hereby amended, in sub-section (1) thereof, by the substitution for the figures “ 158 ” of the figures and letter “ 165F ”.

Amendment of section 218 (1) of the principal Ordinance.

17 Section 218 of the principal Ordinance is hereby amended, in sub-section (1) thereof, by the substitution for the figures “ 158 ” of the figures and letter “ 165F ”.

Amendment of section 252 of the principal Ordinance.

18 Section 252 of the principal Ordinance is hereby amended as follows :—

- (1) by the re-numbering of the section as sub-section (1) thereof; and
- (2) by the addition of the following new sub-section immediately after re-numbered sub-section (1) :—

“ (2) Every person detained in custody under this section shall be so detained by warrant addressed to the Fiscal of a province and to the superintendent of any prison in that province, and the provisions of section 289A shall apply to every such warrant.”.

19 Section 253 of the principal Ordinance is hereby amended, in sub-section (1) of that section, as follows :—

Amendment of section 253 (1) of the principal Ordinance.

(1) by substitution of the following for paragraph (a) of that sub-section :—

“(a) If the accused pleads guilty to or is convicted of the offence with which he is charged he shall then be asked whether he admits the previous conviction.”;

(2) by the repeal of paragraph (b) of that sub-section ; and
(3) in paragraph (c) of that sub-section—

(a) by the re-lettering thereof as paragraph (b) ; and
(b) by the substitution for the words “ If he answers that he has been so previously convicted ” of the words “ If he admits the previous conviction ”.

20 Section 256 of the principal Ordinance is hereby amended—

Amendment of section 256 of the principal Ordinance.

(1) by the substitution for paragraph (c) of that section of the following :—

“(c) Persons employed in the Post and Telegraph Department, the Railway Department or the Survey Department, other than those engaged exclusively on clerical duties.” ; and

(2) by the omission of paragraphs (f) and (g) of that section.

21 Section 257 of the principal Ordinance is hereby amended in paragraph (1) of sub-section (1) thereof—

Amendment of section 257 (1) of the principal Ordinance.

(1) by the substitution for the words “ one thousand rupees ” of the words “ two thousand rupees ” ; and

(2) by the substitution for the words “ one hundred rupees ” of the words “ two hundred rupees ”.

22 Section 289 of the principal Ordinance is hereby amended by the addition at the end thereof of the following new sub-section :—

Amendment of section 289 of the principal Ordinance.

“(6) Every person remanded or committed to custody under this section shall be so remanded or committed by warrant addressed to the Fiscal of a province and to the superintendent of any prison in that province, and the provisions of section 289A shall apply to every such warrant.”

23 The following section is hereby inserted immediately after section 289 of the principal Ordinance and shall have effect as section 289A of that Ordinance :—

Insertion of new section 289A in the principal Ordinance.

289A. (1) Every warrant of detention, commitment or remand issued under section 126A, section 165E, section 252, or section 289 shall be in the prescribed form and shall be delivered to the Fiscal who shall upon receipt thereof take charge of the person named therein and deliver him into the custody of the superintendent of the prison named therein, together with a copy of the warrant certified under the hand of the Fiscal, and the said warrant shall be full authority to the Fiscal for so doing and for detaining the said person for the purpose.

Procedure on issue of warrants of commitment, &c. under sections 126A, 165E, 252, and 289.

(2) The said superintendent shall, upon delivery to him as aforesaid of the person named in the warrant detain him and keep him safely in custody on behalf of the Fiscal for such time as may be specified by the warrant, and shall otherwise comply with the terms of the warrant and with any order lawfully issued to him by any court with respect to such person.

(3) The copy of the warrant so certified as aforesaid shall be full authority to the said superintendent for the detention and custody of such person.

24 Section 295 of the principal Ordinance is hereby repealed.

Repeal of section 295 of the principal Ordinance.

25 Section 302 of the principal Ordinance is hereby amended as follows :—

Amendment of section 302 of the principal Ordinance.

(1) in sub-section (1)—

(a) by the omission of the words “ or is examined by ” ;

(b) by the omission of the words “ or examination, including every question put to him and every answer given by him,” ;

(c) by the substitution for the words “ his answers ” of the words “ his statement ” ;

(2) in sub-section (2), by the omission of the words " or examination "; and

(3) in sub-section (3), by the omission of the words " or examination ".

Insertion of new sections 305A and 305B in the principal Ordinance.

26 The following new sections shall be inserted immediately after section 305 of the principal Ordinance and shall have effect respectively as sections 305A and 305B of that Ordinance :—

Punishment of detention in lieu of death for persons under sixteen years of age.

305A. Where any person convicted of an offence punishable with death, appears to the court to be under the age of sixteen years, the court shall pronounce on that person in lieu of the sentence of death the sentence provided by section 53 of the Ceylon Penal Code.

Procedure where a woman convicted of a capital offence alleges pregnancy.

305B. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before whom a woman is so convicted thinks it expedient that the question whether or not the woman is pregnant should be determined, such question shall, before sentence is passed on her, be determined—

(a) if the woman is convicted after trial at Bar by three Judges without a jury, by those Judges ; or

(b) if the woman is convicted after trial by jury, by the jury who returned the verdict of guilty, and the members of such jury need not be resworn.

(2) In cases falling under paragraph (b) of sub-section (1)—

(a) If after the conviction of the woman and before the jury return a verdict on the question whether the woman is or is not pregnant, any juror is from any sufficient cause prevented from attending throughout the inquiry, or if any juror absents himself and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given or when such evidence is interpreted the language in which it is interpreted, the court may either order a new juror to be added or discharge the jury and order a new jury to be chosen.

(b) If the jury are not able, either unanimously or by a majority of not less than five to two, to agree upon the question to be determined or if in the opinion of the court the interests of justice so require, the court may discharge the jury and order a new jury to be chosen.

(c) Where the court orders a new jury to be chosen under paragraph (a) or paragraph (b) of this sub-section, such jury shall be constituted in like manner as the jury chosen for a trial. Every such jury, and every new juror added under paragraph (a) of this sub-section, shall be sworn in such manner as the court may direct.

(3) The question whether the woman is pregnant or not shall be determined by the Judges or by the jury, as the case may be, on such evidence as may be laid before them either on the part of the woman or on the part of the prosecution, and the Judges or the jury, as the case may be, shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

(4) If the finding is that the woman is pregnant, the court shall pronounce on her in lieu of the sentence of death a sentence of imprisonment as provided by section 54 of the Ceylon Penal Code.

Punishment of imprisonment in lieu of death for pregnant women.

Amendment of section 309 of the principal Ordinance.

27 Section 309 of the principal Ordinance is hereby amended as follows :—

(1) in paragraph (a) thereof, by the substitution for all the words from " the Fiscal of the province " to the end of that paragraph, of the following :—

" the Fiscal. Every such warrant shall be addressed to the Fiscal of the province in which the place where the sentence is to be carried out is situated, and to the superintendent of any prison at such place, and the provisions of section 311A shall apply to every such warrant." ;

(2) by the repeal of paragraph (e) thereof ; and

(3) in paragraph (f) (1) thereof, by the substitution for the words " the superintendent " of the words " the superintendent or a jailor ".

28 Section 310 of the principal Ordinance is hereby amended as follows :—

Amendment of section 310 of the principal Ordinance.

- (1) in paragraph (a) thereof, by the substitution for the words “when the sentence was passed and shall deliver the same to the Fiscal or his deputy.”, of the words “when the sentence was passed.”; and
- (2) by the substitution for paragraph (b) thereof of the following new paragraph :—

“(b) Every such warrant shall be in the prescribed form and shall be addressed to the Fiscal of a province and to the superintendent of any prison in that province, and the provisions of section 311A shall apply to every such warrant.”

29 Section 310A of the principal Ordinance is hereby amended by the substitution for all the words from “under the section” to “The Ceylon Penal Code, 1883,” of the words “under section 53 of the Ceylon Penal Code”.

Amendment of section 310A of the principal Ordinance.

30 Section 311 of the principal Ordinance is hereby amended as follows :—

Amendment of section 311 of the principal Ordinance.

- (1) in paragraph (a) thereof, by the substitution for all the words from “when the sentence was passed” to the end of that paragraph, of the words “when the sentence was passed.”; and
- (2) by the substitution for paragraph (b) thereof of the following new paragraph :—
- (b) Every such warrant shall be in the prescribed form and shall be addressed to the Fiscal of a province and to the superintendent of any prison in that province, and the provisions of section 311A shall apply to every such warrant.”

31 The following section is hereby inserted immediately after section 311 of the principal Ordinance and shall have effect as section 311A of that Ordinance :—

Insertion of new section 311A in the principal Ordinance.

311A. (1) Every such warrant as is referred to in section 309, section 310, or section 311 shall be delivered to the Fiscal who shall upon receipt thereof take charge of the person named therein, and deliver him into the custody of the superintendent of the prison named therein, together with a copy of the warrant certified under the hand of the Fiscal, and the said warrant shall be full authority to the Fiscal for so doing, and for detaining the said person for the purpose, and for carrying into execution any sentence specified in the warrant.

Procedure on issue of warrants under sections 309, 310 and 311.

(2) The said superintendent shall, upon delivery to him as aforesaid of the person named in the warrant, detain him and keep him safely in custody on behalf of the Fiscal until the sentence has been carried into execution, and shall otherwise comply with the terms of the warrant and with any order lawfully issued to him by any court with respect to such person.

(3) The copy of the warrant certified as aforesaid shall be full authority to the superintendent for such detention and custody and for carrying the sentence into execution.

(4) Nothing in this section shall affect the provisions of this Code relating to the execution of sentences of whipping.

32 Section 338 of the principal Ordinance is hereby amended by the substitution for the Explanation at the end of that section of the following :—

Amendment of section 338 of the principal Ordinance.

“*Explanation.*—An order made under section 163 committing an accused for trial or an order made under section 162 discharging an accused is not a judgment or final order.”

33 Section 340 of the principal Ordinance is hereby amended by the repeal of sub-section (3) thereof, and the substitution of the following new sub-section therefor :—

Amendment of section 340 of the principal Ordinance.

(3) Every such petition shall bear a stamp of five rupees :
Provided that no such stamp shall be necessary—

- (a) if the appeal is preferred by the Attorney-General under section 338 (2), or
- (b) in the case of an appeal against a judgment or final order pronounced by a Police Court in any proceedings instituted on a written report made under section 148 (1) (b), if the appeal is preferred by the person who made such report :

Provided further that the court from which an appeal is preferred may if it see fit allow the payment of the stamp fee to stand over until judgment on the appeal shall have been given.

Amendment of section 365 of the principal Ordinance.

34 Section 365 of the principal Ordinance is hereby amended by the repeal of sub-section (2) thereof and the substitution of the following new sub-section therefor :—

(2) For the purposes of the post mortem examination under sub-section (1), the Police Magistrate or Inquirer may, if the dead body has already been buried, cause that body to be disinterred.

Repeal of sections 387 and 388 of the principal Ordinance and substitution of new sections therefor.

Power of Attorney-General to call for original record and productions.

35 Sections 387 and 388 of the principal Ordinance are hereby repealed and the following sections are substituted therefor :—

387. (1) It shall be lawful for the Attorney-General after the receipt by him of the certified copy of the record of an inquiry forwarded under section 165E, if he is of opinion that such action is necessary for the proper consideration of the case by him, to call for the original record of the inquiry (together with any documents produced in evidence) from the court to which such record has been forwarded, and for any productions other than documentary evidence, from the Fiscal.

(2) It shall be the duty of the Registrar of the Supreme Court or the Secretary of the District Court, as the case may be, and of the Fiscal to forward to the Attorney-General any record or production called for under sub-section (1).

Power of Attorney-General to quash commitment and issue instructions to Magistrate.

388. If, after the receipt by him of the certified copy of the record of an inquiry forwarded under section 165E, the Attorney-General is of opinion that there is not sufficient evidence to warrant a commitment for trial, or if for any reason he is of opinion that the accused should be discharged from the matter of the complaint, information or charge, and if the accused is in custody from further detention, he may by order in writing quash the commitment made by the Magistrate and may direct the Registrar of the Supreme Court or the Secretary of the District Court, according as the accused has been committed for trial before the Supreme Court or a District Court, to return the record of the inquiry to the Police Court. The Attorney-General shall in every such case issue to the Magistrate such directions as to the disposal of the complaint, information or charge against the accused as to him may seem expedient, and it shall be the duty of the Magistrate to comply with the directions so issued.

Amendment of section 389 (1) of the principal Ordinance.

36 Section 389 of the principal Ordinance is hereby amended in sub-section (1) thereof by the substitution for all the words from "shall return to the Police Court" to the end of that sub-section, of the words "shall direct that the record of the inquiry be returned to the Police Court, and thereupon the Registrar of the Supreme Court or the Secretary of the District Court, as the case may be, shall so return the record and the Magistrate shall comply with the order of the Attorney-General".

Amendment of section 390 of the principal Ordinance.

37 Section 390 of the principal Ordinance is hereby amended as follows :—

(1) in sub-section (1) thereof—

(a) by the insertion immediately after the words "A Police Magistrate" of the words "or District Judge";

(b) by the substitution for the words "any case" of the words "any criminal case"; and

(2) in sub-section (2) thereof, by the substitution for the words "transmitted to him" of the words "transmitted to him by a Police Magistrate".

Amendment of section 391 of the principal Ordinance.

38 Section 391 of the principal Ordinance is hereby amended as follows :—

(1) by the substitution for the figures "157" of the figures "162"; and

(2) by the omission of the words "forward to it an indictment and".

Amendment of section 397 (2) of the principal Ordinance.

39 Section 397 of the principal Ordinance is hereby amended in sub-section (2) thereof by the substitution for the words "the charge." of the words "the charge and to continue so to appear on every date to which the trial may be postponed or adjourned."

40 The following new section shall be inserted immediately after section 440A of the principal Ordinance and shall have effect as section 440B, of that Ordinance :—

Insertion of new section 440B in the principal Ordinance.

440B. In every case where the committal or remand of any person for custody pending inquiry or trial is authorized by any written law, the court may, if such person is a woman or under the age of sixteen years, in lieu of committing or remanding such person to the custody of the Fiscal, direct that, for the period for which such committal or remand may otherwise have been ordered under that law, such person shall remain in the custody of a probation officer or in an approved home.

Custody of women and persons under sixteen years pending inquiry or trial.

In this section "approved home" means a home or other similar institution for women or persons under the age of sixteen years, which has been approved by the Governor by notification published in the Gazette.

41 The second schedule to the principal Ordinance is hereby amended—

Amendment of the second schedule to the principal Ordinance.

- (1) in the item relating to section 113B of the Penal Code, by the insertion in the eighth column of that schedule of the words "District Court, if the offence which is the object of the conspiracy is triable by the District Court or Police Court." ;
- (2) in the item relating to section 114 of the Penal Code, by the substitution for all the words from "Death" to "property" in the seventh column of that schedule of the following :—

"In the case of persons under the age of sixteen years, detention during the Governor's pleasure, and forfeiture of property. In the case of pregnant women, imprisonment for life, and forfeiture of property. In all other cases, death or imprisonment for twenty years and forfeiture of property." ;
- (3) in each of the items relating to section 141, 159, 160, 203, 204, 212, 260, 263, 309, 323, 334, 335, 345, 404, 405, 407, 437, and 487 of the Penal Code, by the addition, in the eighth column of that schedule, of the words "Police Court" immediately after the words "District Court", wherever those words occur in those items ;
- (4) in the item relating to section 169F of the Penal Code, by the substitution for the words "Imprisonment of either description for a term not exceeding six months" in the seventh column of that schedule of the word "Same" ;
- (5) in each of the items relating to sections 191, 296, and 299 of the Penal Code, by the substitution for the word "Death" in the seventh column of that schedule of the following :—

"In the case of persons under the age of sixteen years, detention during the Governor's pleasure. In the case of pregnant women, imprisonment for life. In all other cases, death." ;
- (6) in the item relating to section 208 of the Penal Code, by the addition, immediately after the words "District Court" where those words occur for the first time in the eighth column of that schedule, of the words "Police Court" ;
- (7) in each of the items relating to sections 298, 318, 324, 357, 358, 362A, 362C, 362D, 365, 384, 395, 460, 461, 463, 464, and 466 and 466A, by the addition, in the eighth column of that schedule, of the words "District Court" ;
- (8) in the item relating to section 365A of the Penal Code, by the addition, in the eighth column of that schedule, of the words "District Court, Police Court" ;
- (9) in each of the items relating to sections 367, 368, 369, 370, 380, 382, 389, 391, 394, 396, 397, and 403 of the Penal Code by the substitution for the words "one hundred" in the seventh column of that schedule of the words "two hundred" ;
- (10) in the item relating to section 371 of the Penal Code, by the addition in the eighth column of that schedule of the words "District Court, except where preparation was made to cause death." ;
- (11) in the item relating to section 386 of the Penal Code, by the substitution for the words "Police Court", in the eighth column of that schedule, of the words

- “Police Court, where the value of the property in respect of which the offence is committed does not exceed two hundred rupees.”;
- (12) in the item relating to section 390 of the Penal Code, by the addition immediately after the words “District Court” in the eighth column of that schedule, of the words “Police Court, where the value of the property in respect of which the offence is committed does not exceed two hundred rupees.”;
- (13) in the item relating to section 413 of the Penal Code, by the substitution for the word “fifty”, in the eighth column of that schedule, of the words “two hundred”;
- (14) in the item relating to section 455 of the Penal Code, by the addition in the eighth column of that schedule, of the words “District Court, except where the forgery is in respect of a record of a court of justice.”;
- (15) by the omission of the item relating to section 458 of the Penal Code; and
- (16) in the item relating to section 462 of the Penal Code, by the addition in the eighth column of that schedule of the words “District Court” against each part of that item.

Insertion of new Forms 5A, 7A, 7B and 7C in the third schedule to the principal Ordinance.

42 The Forms 5A, 7A, 7B, and 7C in the Schedule hereto are hereby inserted in the third schedule to the principal Ordinance and shall have effect as Forms 5A, 7A, 7B, and 7C respectively thereof.

Amendment of Form 6 in the third schedule to the principal Ordinance.

43 Form 6 in the third schedule to the principal Ordinance is hereby amended as follows:—

- (1) in the heading to that Form, by the substitution for the word “Imprisonment.” of the words “Imprisonment passed by a District Judge.”;
- (2) by the substitution for the words “with this precept” of the words “with a copy of this warrant certified under your hand”;
- (3) by the substitution, for the words “into execution, and for your so doing this shall be your sufficient warrant.”, of the words “into execution.”.

Substitution of new form for Form 8 in the third schedule to the principal Ordinance.

44 Form 8 in the third schedule to the principal Ordinance is hereby repealed and the new Form 8 in the Schedule hereto is substituted therefor.

Amendment of Form 9 in the third schedule to the principal Ordinance.

45 Form 9 in the third schedule to the principal Ordinance is hereby amended as follows:—

- (1) by the substitution for the words “with this precept” of the words “with a copy of this warrant certified under your hand”;
- (2) by the substitution, for the words “into execution, and for your so doing this shall be your sufficient warrant.”, of the words “into execution.”.

SCHEDULE.

FORM 5A.

(s. 310).

5A.—Warrant of Commitment on a Sentence of Imprisonment or Fine passed by the Supreme Court.

Case No. —.

In the Supreme Court.

To the Fiscal of the — Province, and to the Superintendent of the prison at —.

Whereas on the — day of —, 19—, ¹— the ²— Prisoner in Case No. — was duly convicted before me, ³— for that he did on the — day of —, 19—, at —, within the jurisdiction of this Court ⁴— and thereby committed an offence punishable under section — of the Ceylon Penal Code, and was sentenced to ⁵— imprisonment, and to pay a fine of Rs. —, or in default of payment to undergo — imprisonment, and whereas the said fine has not been paid:

These are therefore to command you, the said Fiscal to take the said ¹— and him safely convey to the prison at — aforesaid, and there to deliver him to the Superintendent thereof, together with a copy of this warrant certified under your hand.

And I do hereby command you, the said Superintendent of the said prison, to receive the said ¹— into your custody in the said prison, and there keep him safely until the aforesaid sentence has been carried into execution.

Given under my hand this — day of —, 19—, at —.

(Signed) X. Y.

Judge of the Supreme Court.

¹ Name of prisoner.

² First, second, third, as the case may be.

³ Name and official designation.

⁴ State the offence or offences concisely.

⁵ State the punishment fully and distinctly and strike out unnecessary words.

FORM 7A.

(s. 126A).

7A.—Warrant of Detention.

Case No. ———.

In the Police Court of ———.

To the Fiscal of the ——— Province, and to the Superintendent of the prison at ———.

Whereas on the ——— day of ———, 19—, ¹——— was forwarded to the Police Court of ——— in terms of section 126A of the Criminal Procedure Code, 1898, and it has become necessary to detain the said ²——— pending further investigation.

¹ Name, residence, designation, &c. of the accused.

² Name of accused.

These are therefore to command you, the said Fiscal, to take the said ²——— and him safely convey to the prison at ——— aforesaid, and there to deliver him into the custody of the Superintendent thereof, together with a copy of this warrant certified under your hand.

And I hereby command you, the said Superintendent of the said prison, to receive the said ²——— into your custody in the said prison, and there safely keep him until the ³——— day of ———, 19—, when you, the said Fiscal, are hereby required to convey and produce him before the undersigned, a Police Magistrate in and for the division of ——— or before such other Police Magistrate for the said division as may then be there, to be further dealt with according to law.

³ Date not to exceed 15 days on the whole from date of his warrant.

Given under my hand this ——— day of ———, 19—, at ——— in the division of ——— aforesaid.

(Signed) X. Y.
Police Magistrate.

FORM 7B.

(s. 252).

7B.—Warrant of Detention after Discharge of Jury.

Case No. ———.

In the ——— Court at ———.

To the Fiscal of the ——— Province, and to the Superintendent of the prison at ———.

Whereas on the ——— day of ———, 19—, ¹——— was tried before me at ———, for that he did on the ——— day of ———, 19—, at ———, within the jurisdiction of this Court ²——— and thereby committed an offence under section ——— of the Ceylon Penal Code.

¹ Name, residence and designation of accused.

² State the offence or offences concisely.

³ Name of accused.

And whereas the jury which was empanelled to try the said ³——— on the said offence was discharged under section ——— of the Criminal Procedure Code, 1898, and it is therefore necessary for the said ³——— to be detained in custody until he can be tried by another jury, he having failed to give security in the sum of Rs. ——— demanded.⁴

These are therefore to command you, the said Fiscal, to take the said ³——— and him safely convey to the prison at ——— aforesaid, and there to deliver him to the Superintendent thereof, together with a copy of this warrant, certified under your hand.

⁴ Strike out any words that are unnecessary.

And I do hereby command you, the said Superintendent of the said prison to receive the said ³——— into your custody in the said prison and there keep him safely until the ——— day of ———, 19—, when you, the said Fiscal, are hereby required to convey and produce him before the ——— Court at ——— to stand his trial by another jury.

Given under my hand this ——— day of ———, 19—, at ———.

(Signed) X. Y.
Judge of the Supreme Court.

FORM 7C.

(s. 165E (1)).

7C.—Warrant of Commitment for Trial.

Case No. ———.

In the Police Court of ———.

To the Fiscal of the ——— Province, and to the Superintendent of the prison at ———.

Whereas I have committed¹ ——— for trial on the following charge² ³———.

¹ Name or names of accused, and his, her, or their residence, designation, &c.

² Or "charges" if more than one.

³ Insert the charge or charges, as the case may be.

⁴ Name or names of accused.

⁵ "Him", "her" or "the", as the case may be.

⁶ "His", "her" or "their", as the case may be.

These are therefore to command you, the said Fiscal, to take the said ⁴——— and ⁵——— safely convey to the prison at ——— aforesaid, and there to deliver ⁵——— into the custody of the Superintendent thereof, together with a copy of this warrant certified under your hand.

And I hereby command you, the said Superintendent of the said prison, to receive the said ⁴——— into your custody in the said prison and there safely keep ⁵——— until and during ⁶——— trial upon the said charge² before the ——— court at ——— or until thence delivered by due course of law.

These are further to command you, the said Fiscal, to convey and produce the said ⁴——— before the ——— court at ——— whenever required for the purposes of ⁶——— trial before the said court.

Given under my hand this ——— day of ———, 19—, at ———.

(Signed) X. Y.
Police Magistrate for the division of ———.

FORM 8.

(s. 289).

8.—Warrant of Remand or Committal to Custody
on Postponement or Adjournment.

Case No. ———.

In the ——— Court at ———.

To the Fiscal of the ——— Province, and to the Superintendent
of the prison at ———.Whereas on the ——— day of ———, 19—, complaint
was made to the ——— Court at ——— that ¹———
did on the ——— day of ———, 19—, ²———. (*If
the accused is being tried, add:—And whereas the said ³———
has been brought for trial before me*):¹ State name,
residence,
designation, &c. of
accused.² State the offence
or offences as in the
summons or
warrant.³ Name of accused.⁴ If otherwise, state
the cause of the
postponement or
adjournment.If offence bailable,
add "he having
failed to give
security in the sum
of Rs. ———
demanded".And whereas owing to the absence of a material witness⁴
it has become necessary to postpone (*or to adjourn, as the case
may be*) the inquiry into the matter of the said complaint until
the ——— day of ———, 19—, at ——— o'clock at
———, and it is necessary that the said ³——— should
in the meantime be remanded in custody (*or committed to
custody, as the case may be*)⁵:These are therefore to command you, the said Fiscal to take
the said ³——— and him safely convey to the prison at ———
aforesaid, and there to deliver him to the Superintendent thereof,
together with a copy of this warrant, certified under your hand.And I do hereby command you, the said Superintendent
of the said prison to receive the said ³——— into your custody
in the said prison, and there safely keep him until the ———
day of ———, 19—, when you, the said Fiscal, are hereby
required to convey and produce him at the time and place to
which the said inquiry is postponed (*or adjourned, as the case
may be*) before the undersigned, or before such other Magistrate
(*or Judge, as the case may be*) as may then be there, to answer
further to the said complaint and to be further dealt with
according to law.Given under my hand this ——— day of ———, 19—,
at ———.(Signed) X. Y.
Police Magistrate.⁶⁶ Or "District
Judge", or
"Judge of the
Supreme Court".Passed in Council the Seventeenth day of November, One
thousand Nine hundred and Thirty-seven.E. W. KANNANGARA,
Clerk of the Council.