



THE  
CEYLON GOVERNMENT  
GAZETTE

EXTRAORDINARY.

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*Published by Authority.*

PART II.—LEGAL.

DRAFT ORDINANCES.

MINUTE.

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

L. D.—O 77/39

An Ordinance temporarily to limit the rights and powers of mortgagees : to grant relief to mortgagors of immovable property : to defer the sale of such property in execution of hypothecary decrees : and for other purposes incidental to or connected with the matters aforesaid.

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

1. (1) This Ordinance may be cited as the Mortgage (Suspension of Sales) Ordinance, No. of 1939, and shall remain in operation for a period of one year reckoned from the date of its commencement :

Short title  
and operation  
of Ordinance.

Provided that such period may from time to time be extended, by resolution passed by the State Council and ratified by the Governor, for such further period as may be specified in the resolution.

(2) Any resolution under sub-section (1) may at any time be amended by resolution passed by the State Council and ratified by the Governor.

Ordinance to apply to mortgages of land only. Cap. 74. Cap. 86.

2. This Ordinance shall apply to mortgages of land only and shall, subject as hereinafter provided, be read and construed as one with the Mortgage Ordinance and the Civil Procedure Code :

Provided that—

- (1) the definitions of "mortgage" and "hypothecary action" in section 2 of the Mortgage Ordinance shall, for such purpose, have effect as though the word "land" were substituted for the word "property" in each of those definitions ; and
- (2) in any case where any provision of this Ordinance is inconsistent or in conflict with any provision of the Mortgage Ordinance or of the Civil Procedure Code, the provisions of this Ordinance shall prevail.

Limitation of rights of mortgagees.

3. A mortgagee shall not, without leave of the Court—

- (1) call up or demand from any mortgagor payment of the mortgage money or any part thereof ;
- (2) commence or continue any hypothecary action or any action or proceeding for the recovery of any mortgage money ;
- (3) commence or continue any action or proceeding for breach of any covenant, agreement, or condition expressed or implied in any mortgage other than a covenant, agreement, or condition for the payment of interest ;
- (4) commence or continue any action or proceeding for any rate of interest higher than the rate provided in the mortgage ;
- (5) proceed with, or complete the execution of any decree entered in any hypothecary action or any judicial sale of any mortgaged land or exercise any power of sale or entry into possession conferred by any mortgage or by any written law.

Procedure for applications under section 3.

4. (1) Every application under section 3 shall be made by petition to which the mortgagor and all other interested parties shall be made respondents.

(2) The Court may at any time direct that notice of any application under section 3 shall be given to such persons as the Court considers entitled thereto and may deal with any case *ex parte* if the Court considers such procedure to be just and equitable in the special circumstances of that particular case.

Circumstances in which the Court should refuse leave.

5. (1) Where an application for leave of the Court is made under section 3 on the ground that the mortgagor has failed to pay the mortgage money or any part thereof on any date, whether before or after the commencement of this Ordinance, no such leave shall be granted so long as interest on the mortgage money is paid by the mortgagor at the rate provided in the mortgage within such time or times as the Court is hereby authorised to appoint in that behalf.

(2) Where an application for leave of the Court is made under section 3 in any case on the ground that there has been a breach of any covenant, condition or agreement other than non-payment of the mortgage money or any part thereof or non-payment of interest, the Court shall in such case determine whether the breach is of such a nature as seriously to endanger the security of the mortgagee and shall not grant such leave unless the Court is satisfied that the security is so seriously endangered.

Circumstances to be considered by the Court before it grants leave.

6. (1) Where an application for leave of the Court is made under section 3, the Court may, in determining whether such leave should be granted, take into consideration—

- (a) the inability of the mortgagor to pay the mortgage money either from his own funds or by borrowing at a reasonable rate of interest ;

- (b) the ability of the mortgagor to pay a reasonably increased rate of interest in consideration of the continuance of the mortgage ;
- (c) the conduct of the mortgagor in respect of any breach by him of any covenant or condition of the mortgage ;
- (d) the effect of the continuance of the mortgage upon the security thereby afforded to the mortgagee ;
- (e) any hardship that would be inflicted on the mortgagee by the continuance of the mortgage or upon the mortgagor by the enforcement thereof.

(2) Where the Court, having regard to the matters mentioned in sub-section (1) and to all other relevant considerations, is of opinion that it is just and equitable that leave should be granted, leave shall be granted accordingly.

(3) Such leave may be granted on such terms and conditions, if any, as the Court thinks fit.

7. In any action or proceeding by a mortgagee for the recovery of any sum as interest secured by a mortgage, the Court may, if in its discretion and in the circumstances of the case it deems it just and expedient, in lieu of entering a decree for immediate payment, enter decree for payment at a date to be fixed, or by instalments payable at such times as the Court in its discretion may determine ; and, for such purpose, the Court shall have power and jurisdiction to give judgment that decree should be entered in such form as the Court deems necessary or appropriate to give full effect to the intent of this Ordinance and to direct the method of enforcement or execution of any decree so entered.

Power of the Court to order instalments in action for recovery of interest due on mortgage.

8. Where by the terms of a mortgage the payment of both principal and interest is provided by a series of regular instalments or equated payments upon the completion of which the mortgage money is paid or liquidated, each such instalment shall, for the purposes of this Ordinance, be deemed to consist wholly of interest.

Equated payments in reduction of principal and interest to be regarded as payments of interest.

9. (1) The Court shall, in any hypothecary action or in any action, proceeding, or matter in respect of any mortgage, have full power and jurisdiction to appoint a receiver or manager for the purpose of administering any mortgaged land and to give all such consequential or incidental directions as the Court may deem necessary to secure the due administration of that land and to vest such receiver or manager with all such rights and powers (including the right to enter into possession of that land and to take the income or produce thereof) as the Court may deem necessary for the purposes of this Ordinance.

Power of Court to appoint a person to manage mortgaged land.

(2) Any order or direction of the Court under sub-section (1) may be enforced in such manner as the Court may direct.

(3) Any deed or instrument executed by any person in compliance with any order or direction of the Court under sub-section (1) shall be free from stamp duty.

10. In order that full effect may be given to the intent of this Ordinance, the Court shall, in every matter arising in respect of a mortgage, have full power and jurisdiction to deal with and determine such matter as it deems just and equitable in the circumstances of the case, notwithstanding that express provision in respect of such matter is not herein contained.

General powers and jurisdiction of the Court.

11. Any order made or direction given by the Court under any power or jurisdiction conferred by this Ordinance shall be final and no appeal shall lie therefrom to the Supreme Court.

Order of Court to be final.

12. (1) A mortgagor who is entitled to any benefit under, or to the protection of, this Ordinance, may consent to the exercise by the mortgagee of any power ; but such consent shall not take away the necessity for obtaining the leave of the Court unless such consent is in writing and witnessed by a Proctor of the Supreme Court who certifies that such consent is given on his advice.

Exercise of mortgagee's powers with consent of mortgagor.

(2) If consent is so given and certified, the leave of the Court shall, so far as such consent extends, be unnecessary.

13. (1) The provisions of this Ordinance shall have no application in any case in which the benefits of this Ordinance have been expressly renounced by the mortgagor in the instrument creating the mortgage.

(2) In sub-section (1), "instrument" means an instrument executed after the commencement of this Ordinance.

Indemnification  
of trustees.

14. (1) No trustee shall be personally liable in respect of any loss to the trust estate account by reason of the operation of this Ordinance in respect of investments made either before or after the commencement of this Ordinance.

(2) It shall not be deemed to be the duty of any trustee, in respect of the investment of trust funds, to insert in any instrument whereby any mortgage is created a condition expressly excluding the provisions of this Ordinance.

Ordinance to apply  
to Crown.

15. All the provisions of this Ordinance shall apply to the Crown.

Interpretation.

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

"Court", when used with reference to any mortgage, mortgagor, mortgagee or hypothecary action, means the Court having jurisdiction to enforce by decree in that hypothecary action a mortgage created by that mortgagor in favour of that mortgagee;

"the rate provided in the mortgage" means the rate of interest provided in the mortgage, or where there is provided in the mortgage a reduced rate of interest in the case of punctual payment, the reduced rate; and shall not in any case be construed to refer to any increased rate of interest stipulated to be paid in any contingency.

#### *Objects and Reasons.*

The object of this Bill is to grant temporary relief to owners whose lands are under mortgage by providing that the mortgagee shall not commence or continue any hypothecary action for the recovery of the money lent on a mortgage except with the leave of Court. Clause 3 further provides that no decree entered in any hypothecary action shall be enforced by a judicial sale of the mortgaged property except with the leave of Court. The expression "Court" is defined to mean the Court which would ordinarily have jurisdiction to entertain a suit on a mortgage bond (Clause 16).

2. Clause 5 prescribes the circumstances in which the Court will refuse to grant permission for the institution of a mortgage action. Where the default of the mortgagor is non-payment of the mortgage money, leave will not be granted so long as interest is paid by the mortgagor at the rate stipulated in the bond within such time as the Court may allow for such payment.

3. Clause 6 prescribes the circumstances to be considered by the Court before granting leave to institute a mortgage action. *Inter alia*, the Court has to take into account the effect of the continuance of the mortgage on the security of the mortgagee.

4. Clause 7 amplifies the existing powers of the Court to enter instalment decrees and to modify the form of its decree so as best to secure the grant of equitable relief.

5. Clause 9 empowers the Court to appoint a manager or receiver for the purpose of administering any mortgaged land so as best to conserve the property and the income derivable therefrom.

6. The order of the Court granting equitable relief under the new law will be final and no appeal will lie therefrom to the Supreme Court (Clause 11).

7. A mortgagor may, by writing witnessed by a Proctor, consent to waive any benefit to which he may be entitled under the new law. The Proctor, however, will have to certify that he advised his client to consent to such waiver (Clause 12). Similarly, it will be possible to contract out of the provisions of the new law in any mortgage bond executed *after* such law comes into operation.

G. C. S. COREA,  
Minister for Labour, Industry and Commerce.  
Colombo, April 2, 1940.

## MINUTE.

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

L. D.—O 488/34

An Ordinance to make provision for the grant and disposition of Crown lands in Ceylon; for the management and control of such lands and the foreshore; for the regulation of the use of the water of lakes and public streams; and for other matters incidental to or connected with the matters aforesaid.

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An Ordinance to make provision for the grant and disposition of Crown lands in Ceylon; for the management and control of such lands and the foreshore; for the regulation of the use of the water of lakes and public streams; and for other matters incidental to or connected with the matters aforesaid.

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

1. This Ordinance may be cited as the Crown Lands Ordinance, No. of 1940, and shall, save as otherwise provided in section 99, come into operation on such date as the Governor may appoint by Proclamation published in the Gazette.

Short title  
and  
commencement.

## PART I.

*Grants, leases, and other dispositions of Crown land.*

Grants, leases,  
and other  
dispositions  
of Crown land.

2. Subject to the provisions of this Ordinance and of the regulations made thereunder, the Governor may in the name and on behalf of His Majesty—

- (1) make absolute or provisional grants of Crown land ;
- (2) sell, lease or otherwise dispose of Crown land ;
- (3) enter into agreement for the sale, lease or other disposition of Crown land ;
- (4) issue permits for the occupation of Crown land ;
- (5) issue licences to take or obtain any substance or thing found in Crown land ;
- (6) sell or lease the right to mine or gem in any Crown land or in any land which has been disposed of by the Crown with a reservation of mining rights in favour of the Crown.

Surrender of  
land comprised  
in instrument  
of disposition.

3. The Governor may, in the name and on behalf of His Majesty, accept the surrender of any land comprised in any instrument of disposition upon such terms and conditions as he may think fit or as may be prescribed.

Surrender and  
sub-division.

4. (1) Where the owner of any land comprised in a Crown grant is desirous of dividing or partitioning such land, he may apply to the Governor to accept the surrender of such grant and to re-grant the land comprised therein in parcels.

(2) If the lessee of any land leased by the Crown is desirous of dividing or partitioning such land, he may apply to the Governor to accept the surrender of such lease and to lease such land in parcels.

(3) The Governor, if satisfied with the title of the applicant under sub-section (1) or sub-section (2) and on payment by the applicant of all the costs and expenses of, or consequent on, such application, may accept the surrender of such grant or lease and may issue in lieu thereof to the applicant a Crown grant or lease, as the case may be, of the said land in such parcels as the applicant desires ; and where more persons than one are joint owners or joint lessees of any land for the division or partition of which an application is made under this section, a grant or lease issued in lieu of a grant or lease surrendered may dispose of any parcel of the land surrendered to any one or more of such joint owners or joint lessees.

(4) No such division or partition shall be allowed unless all moneys, if any, due under the original grant or lease have been paid in full.

Exchange of  
Crown land for  
private land.

5. The Governor may, subject to such terms and conditions as he may deem fit, dispose of Crown land to any person in exchange for any land surrendered or conveyed by such person to His Majesty.

Special grants  
and leases.

6. (1) A special grant or lease of Crown land may be made at a nominal price or rent or gratuitously for any charitable, educational, philanthropic, religious or scientific purpose, or for any other purpose which the Governor may approve.

(2) Every special grant or lease shall be substantially in the prescribed form and shall state that the title to the land conveyed thereby shall revert to the Crown if the land is not used for the purpose for which it was granted or leased or if it is applied to any other purpose.

(3) Upon proof that any land described in any special grant or lease has ceased to be used for the purpose for which it was granted or leased or has been applied to any other purpose or that there has been a failure to comply with any condition or to observe any covenant of the grant or lease, the Crown shall be entitled, upon application to a court of competent jurisdiction, to a decree cancelling the grant or lease and declaring the land to be vested in the Crown, free from all encumbrances ; and the Crown shall not be liable to pay to any person any sum by way of compensation for improvements effected on the land subsequent to the date of the special grant or lease.

Surrender of  
special grants  
and leases.

7. Notwithstanding anything in any law other than this Ordinance, where any land has been disposed of either before or after the commencement of this Ordinance for any purpose authorised under section 6 (1), such land may, in such cases and subject to such conditions as may be approved by the Governor, be surrendered to the Crown by the grantee or lessee or other person for the time being entitled to the possession and management of such land ; and where such



grantee or lessee or other person entitled to such possession or management cannot be found or ascertained, a court of competent jurisdiction may, on the application of the Attorney-General and after such inquiry as the court deems fit, by order authorise any suitable person to execute the instrument of surrender; and, upon the execution of any such instrument by such grantee or lessee or other person entitled to the possession and management of such land, or by any person so authorised, the land so surrendered shall vest in the Crown free from all encumbrances.

8. (1) Every disposition of Crown land under this Ordinance must be effected by an instrument of disposition executed in such manner as may be prescribed.

Execution and contents of instruments of disposition.

(2) Regulations may be made prescribing the conditions which may be attached to dispositions of Crown land. No such condition shall be deemed to be attached to any disposition of Crown land unless that condition is inserted in the instrument of disposition relating to that land.

9. No Crown grant and no instrument of disposition whereby Crown land is leased for any term exceeding such period as may be prescribed shall be issued under this Ordinance unless and until that land has been surveyed and demarcated to the satisfaction of the Land Commissioner.

Survey of land to precede issue of grant or long-term lease.

10. No disposition of Crown land made under this Ordinance shall be deemed to confer any right to any mineral, mineral product or mineral oil in, under, or upon such Crown land unless otherwise expressly provided in the instrument of disposition; and, save as so expressly provided, all such minerals, mineral products and mineral oils shall, notwithstanding any such disposition, be deemed to remain, and shall remain, the absolute property of His Majesty.

Reservation of minerals.

11. Where the rights under any instrument of disposition are not personal to the grantee but may be assigned by act *inter vivos* or may pass on his death to his heirs or devisees, the burden of any covenants or conditions inserted in such instrument shall run with the land and shall be binding upon the grantee and upon all persons claiming that land through, from or under the grantee.

Covenants and conditions to run with the land.

12. The grantee under any instrument of disposition shall be bound by any covenant or condition inserted therein notwithstanding the fact that he was a minor on the date of the execution of the instrument or that he, or any person on his behalf, did not sign the instrument or subscribe to such covenants and conditions.

Minor bound by covenants and conditions of instrument executed in his favour.

13. The Governor may fix the payments to be made to or recovered by the Crown, either generally in any class of dispositions or specially in respect of any particular disposition, whether by way of price, rent, royalty or otherwise, and may, subject to the covenants and conditions set out in the instrument relating to any such disposition, remit, revise or waive any such payments.

Power of Governor to fix, revise or remit payments due to the Crown.

14. The Governor may at any time mitigate or release any of the terms, covenants and conditions set out in any lease, permit or licence issued under this Ordinance and may at any time by agreement with the grantee vary or modify any such terms, covenants or conditions.

Power of Governor to mitigate, &c., conditions in leases, &c.

15. Unless otherwise provided in the instrument of disposition, the Governor may extend the time allowed to the grantee for the performance of any act, condition or covenants set out in the instrument of disposition, for such period and upon such terms as he may think fit to impose; and the period so extended and the terms so imposed shall be deemed to be inserted in the instrument of disposition and shall have the same force and effect as a covenant or condition thereof.

Power of Governor to grant extension of time for performance of covenants.

16. (1) Where it is provided in any permit or licence that such permit or licence is personal to the grantee thereof, all rights under such permit or licence shall be finally determined by the death of such grantee.

Permits and licences may be personal to grantees thereof.

(2) Where it is provided in any permit or licence that such permit or licence shall be personal to the grantee thereof, the land in respect of which such permit or licence was issued and all improvements effected thereon shall, on the death of the grantee, be the property of the Crown; and no person claiming through, from or under the grantee shall have any interest in such land or be entitled to any compensation for any such improvements.

Cancellation of permits or licences.

Cap. 320.

Cap. 320.

No legal claim for compensation to be founded on cancellation of permit or licence.

Dispositions executed by grantee contrary to provisions in instrument of disposition are void.

Rectification of errors, &c., in instruments of disposition.

Use of the Public Seal of the Island.

Execution of instruments of disposition.

Authentication of instruments required to be signed by the Governor.

Authentication of copies of instruments signed by the Governor.

17. (1) Where a Government Agent is of opinion that the grantee of any permit or licence has failed to observe any condition attached to any such permit or licence, he may cancel such permit or licence and eject the grantee in accordance with the procedure prescribed in sections 106 to 128 of the Land Development Ordinance which shall apply accordingly as though the grantee of a permit or licence under this Ordinance were a permit-holder under that Ordinance and as though the land which is the subject matter of a permit or licence under this Ordinance were land alienated by a permit issued under that Ordinance :

Provided that any matter or form required by the Land Development Ordinance to be prescribed in connection with the cancellation of a permit under that Ordinance shall, for the purpose of the application of that Ordinance to the cancellation of a permit or licence under this Ordinance, be prescribed under this Ordinance.

(2) Where a permit or licence is cancelled under subsection (1), all rights of the grantee under such permit or licence shall cease and be finally determined.

18. Neither the grantee nor any other person shall be entitled to any compensation or damages whatsoever by reason of the cancellation of a permit or licence under the last preceding section ; and no claim for compensation or damages shall in any such case be entertained by any court :

Provided that nothing herein contained shall preclude the gratuitous payment of compensation in any such case.

19. Where in any instrument of disposition issued or executed either before or after the commencement of this Ordinance it is provided that any disposition of the land comprised in such instrument shall not be effected by the grantee without the prior consent or sanction of the Governor or of any specified officer of Government, any disposition executed by the grantee without such consent or sanction shall be void and inoperative for all purposes.

20. Where it appears to a prescribed officer that any instrument of disposition (whether executed before or after the commencement of this Ordinance) contains any clerical or other error or requires amendment in respect of the description of the land comprised therein or in respect of the inscription or recital of the name or designation of the grantee or of any other material fact, such error may be rectified or such amendment may be made by an indorsement on such instrument of disposition signed by such prescribed officer and the grantee ; and any indorsement so signed shall be sufficient for all purposes to rectify the error or to effect the amendment ; and the instrument on which any such indorsement is made shall have effect as though it had been originally issued or executed as so rectified or amended.

## PART II.

### *Execution, authentication and registration of instruments of disposition.*

21. An instrument of disposition need not be issued under the Public Seal of the Island except in such cases and in such circumstances as may be prescribed.

22. Every instrument of disposition whereby any Crown land is granted or sold, or leased for a term exceeding the prescribed period, shall be signed and executed by the Governor. Every other instrument of disposition shall be signed and executed by the prescribed officer.

23. (1) The Governor may, if he thinks fit, instead of signing the original of any instrument of disposition, cause a facsimile of his signature to be stamped thereon ; and any instrument so stamped shall be deemed to be signed by the Governor.

(2) The facsimile of the signature of the Governor shall be stamped on the original of any instrument by or in the presence of the Private Secretary to the Governor or some other person authorised in that behalf by the Governor ; and the Private Secretary or such other person shall certify on the original that the facsimile of the Governor's signature was stamped thereon by him or in his presence, as the case may be.

24. (1) A copy of every instrument of disposition signed or deemed to be signed by the Governor shall be authenticated by the signature of a prescribed officer and shall be deposited for purposes of record at the office of the Registrar of Lands of the district in which the land disposed of by that instrument is situate and at any other office which the Governor may from time to time appoint.

(2) A copy of any instrument authenticated in the manner prescribed in sub-section (1) shall be primary evidence within the meaning of section 62 of the Evidence Ordinance of the instrument of which it purports to be a copy.

Cap. 11.

25. Any person who without the authority of the Governor obtains possession of or uses a stamp containing a facsimile of the Governor's signature shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

Penalty for unlawful possession or use of stamp of Governor's signature.

26. (1) Every Crown grant and every instrument of disposition whereby Crown land is leased for a term exceeding the prescribed period shall, when issued, be forthwith registered at the instance of the Government Agent.

Registration of grants and leases.

(2) No fee shall be paid or recovered for such registration.

### PART III.

#### *Vesting orders and vested land.*

27. (1) The Governor may, by order (hereinafter referred to as a "vesting order") vest any Crown land for purposes of administration in any naval, military, air force or local authority, subject to such terms and conditions as may be specified in such order.

Vesting orders.

(2) Where Crown land is vested in any naval, military, air force or local authority, by a vesting order, any building or other structure standing or erected on such land shall be deemed to be vested in such authority by that order unless that order otherwise provides; and, where Crown land is vested in a local authority, this sub-section shall have effect notwithstanding anything in the written law whereby such local authority is constituted or established.

(3) In this section, "Crown land" includes Crown land in the possession of any local authority in respect of which no vesting order has been issued under any written law or otherwise prior to the commencement of this Ordinance, notwithstanding the fact that such local authority has effected any improvements on such land or been in possession thereof for any period prior to the commencement of this Ordinance.

28. Where the Governor has by vesting order vested any Crown land in any naval, military, air force or local authority which is not a corporation in law, the Governor may in such order specify by name or by office the person or officer to be responsible for the administration of the land so vested and for the due observance and fulfilment of the terms and conditions inserted in the vesting order; and the person or officer so specified in any vesting order shall have and is hereby granted full power and authority to represent, to act for, and to bind such naval, military, air force or local authority for all the purposes of this Ordinance; and where the holder of any office has been so specified in any vesting order, he shall for such purposes be deemed to be a corporation sole with perpetual succession under the name of that office.

Vesting orders in favour of authorities which are not corporations in law.

29. It is hereby declared that, notwithstanding anything in any written law other than this Ordinance, where any Crown land has been or shall be vested in any local authority whether before or after the commencement of this Ordinance and whether by or under any written law, or by vesting order, or otherwise, such land has been and is so vested for the purpose specified in the vesting order relating to such land or if not such purpose is specified, then for the purpose of administration only; and the right and title to the soil of such land has at all times been and shall always remain in His Majesty:

Title of Crown unaffected by vesting orders.

Provided that nothing in this section shall affect or be deemed to affect the title of any person to any land sold or otherwise disposed of by any local authority under and in accordance with the provisions of any written law whereby such authority was constituted or established.

30. (1) The Governor may at any time revoke a vesting order—

Revocation of vesting order.

- (a) at the request of the naval, military, air force or local authority in favour of which the vesting order was made;
- (b) where in the opinion of the Governor there has been a breach of any term or condition subject to which the vesting order was made;
- (c) where in the opinion of the Governor the contingency has occurred on the happening of which the vesting order is to cease to be in force;

- (d) where in the opinion of the Governor the period for which the vesting order is to be in force has expired ;
- (e) where in the opinion of the Governor the land comprised in the vesting order is required for any public purpose ;
- (f) where in the opinion of the Governor the local authority in whose favour the vesting order was made has failed or neglected duly to administer the land comprised in such vesting order ;
- (g) where in the opinion of the Governor the vesting order should be revoked in the public interest ; or
- (h) on any other prescribed ground or in any other prescribed circumstances.

(2) No vesting order whereby Crown land has been vested in any naval, military, air force or local authority shall be revoked unless and until that authority has been afforded an opportunity of showing cause or making representations against the proposed revocation.

(3) In this section, "vesting order" means any order, document or instrument whether issued under this Ordinance or under any other written law or otherwise either before or after the commencement of this Ordinance.

No.  
compensation  
payable upon  
revocation of  
vesting order.

31. (1) Subject to the provisions of sub-sections (2) and (3), where a vesting order has been revoked under section 30, no compensation for improvements effected on the land comprised in such vesting order shall be paid or payable to any naval, military, air force or local authority or to any other person ; and no claim against the Crown for compensation or damages shall be entertained by any court.

(2) Nothing in sub-section (1) shall preclude the gratuitous payment of compensation in any particular case.

(3) Sub-section (1) shall have no application in a case where the vesting order which is revoked under section 30 makes provision for the payment of compensation for improvements effected on the land comprised in such vesting order.

Surrender of  
vested lands.

32. Any naval, military, air force or local authority may at any time surrender to His Majesty any Crown land vested in such authority under this Ordinance or by or under any written law other than this Ordinance. Such surrender shall be effected by an instrument executed by the authority concerned or by the person entitled to act on behalf of such authority.

Effect of  
revocation of  
vesting order  
or surrender of  
vested land.

33. Upon the revocation under section 30 of a vesting order relating to any land, or upon the surrender under section 32 of any land vested in any naval, military, air force or local authority such land shall re-vest in His Majesty who will resume the administration thereof ; and the interest of the naval, military, air force or local authority, as the case may be, in that land shall thereupon cease and be determined.

Ordinances  
enacted for  
protection of  
Crown lands to  
apply equally  
to lands vested  
in a local  
authority.

34. (1) The provisions of any written law relating to the protection, preservation or survey of Crown land, the demarcation of the boundaries of such land, the removal of encroachments and the ejectment of persons encroaching or trespassing thereon, shall be applicable to any Crown land vested in a local authority notwithstanding that the written law by or under which such local authority is constituted or established may make special provision in regard to such matters.

(2) The Governor may, by order published in the *Gazette*, specify the provisions of written law referred to in sub-section (1) ; and any provision of written law so specified shall for all purposes be deemed to fall within the category of the laws referred to in that sub-section.

(3) In order to enable a local authority to take action under any written law referred to in sub-section (1) and for the purpose of the application of such law to Crown land vested in a local authority, the Governor may, in any order published under sub-section (2), provide that any written law specified in that order shall be applicable to Crown land vested in a local authority subject to such modification, adaptation, alteration or amendment of such written law as may be prescribed in such order ; and such law as so modified, adapted, altered or amended shall have application accordingly ; and every such order shall be as valid and effectual as if it were herein enacted.

(4) This section shall apply to all Crown land vested in a local authority whether before or after the commencement of this Ordinance and whether by or under any written law or otherwise.

(5) Nothing in this section shall affect or be deemed to affect any provision of any written law by or under which any local authority is constituted or established.

35. (1) Any local authority in which any Crown land is vested shall, when so required by the Land Commissioner, cause that land to be surveyed by the Surveyor-General at its own expense; and the Surveyor-General is hereby required to survey that land and to prepare and furnish a plan thereof, on proof to his satisfaction of the requisition made by the Land Commissioner to the local authority and on prepayment by the local authority of the cost of such survey and plan.

Survey of Crown land vested in a local authority on requisition of Land Commissioner.

(2) A local authority shall, upon receipt of a plan prepared by the Surveyor-General under sub-section (1), forthwith transmit such plan or a certified copy thereof to the Land Commissioner.

(3) Where a local authority has been required by the Land Commissioner under sub-section (1) to cause any land to be surveyed by the Surveyor-General and has, in the opinion of the Land Commissioner, failed or neglected to comply with such requisition or to pre-pay to the Surveyor-General the cost of the survey, the Land Commissioner may cause such survey to be made by the Surveyor-General and shall certify the cost thereof to the local authority; and upon the issue of any such certificate, the local authority shall be liable to pay the amount of the cost specified in the certificate and such amount shall, until paid, be a charge on the rates, revenue and funds of the local authority.

36. Nothing in the preceding provisions of this part shall apply to any land acquired by the Crown under the provisions of the Land Acquisition Ordinance and thereafter vested in any naval, military, air force or local authority on payment, by such authority, of the cost of such acquisition or of the compensation awarded on such acquisition.

Part III not to apply to land acquired under Chapter 203, and thereafter vested in any authority.  
Cap. 203.

#### PART IV.

##### *Crown lands vested in Village Committees.*

37. Every village committee shall, on or before the prescribed date, transmit to the Government Agent in the prescribed form a schedule containing the prescribed particulars of all Crown lands which the village committee claims is vested in such committee by section 39 of the Village Communities Ordinance.

Village Committees to furnish schedules of Crown lands claimed to be vested under section 39 of Chapter 198.

38. (1) On receipt of the schedule transmitted to him under the foregoing section, the Government Agent shall, after such inquiry as he may deem necessary, recommend to the Governor that such claim should be admitted or rejected or should be modified in such manner as may be set out in the recommendation.

Recommendation of Government Agent on claim preferred and notification thereof to Village Committee.

(2) A copy of the recommendation made by the Government Agent under sub-section (1) shall be sent by registered post by letter addressed to the Chairman of the village committee and shall be deemed to be served on the village committee on the date on which such letter would ordinarily be delivered to the Chairman.

39. A village committee dissatisfied with the recommendation made by the Government Agent under the foregoing section may, within thirty days of the service of a copy of such recommendation to the Committee, appeal therefrom to the Executive Committee.

Appeal to Executive Committee.

40. On an appeal preferred by a village committee, the Executive Committee may—

Powers of Executive Committee on appeal.

- (1) allow the appeal and reverse the recommendation of the Government Agent; or
- (2) direct further enquiry to be made or information to be furnished or evidence to be taken; or
- (3) modify the recommendation made by the Government Agent; or
- (4) affirm the recommendation of the Government Agent.

41. Where the Executive Committee acts under paragraph (2) of section 40, the decision of the Executive Committee shall be communicated to the Government Agent, who shall forthwith comply with the direction of the Executive Committee.

Procedure where Executive Committee desires further evidence or information.

42. Where the Executive Committee acts under paragraph (1) or paragraph (3) or paragraph (4) of section 40, the decision of the Executive Committee shall be submitted to the Governor for confirmation.

Decision of Executive Committee to be submitted to Governor for confirmation.

Where no appeal, recommendation of Government Agent to be submitted to Governor for confirmation. Governor's order on all claims to be final and conclusive.

43. Where no appeal has been preferred by a village committee, the recommendation of the Government Agent shall be submitted to the Governor for confirmation.

44. The Governor may, on the submission to him of a decision of the Executive Committee under section 42 or of the recommendation of the Government Agent under section 43, order that such decision or recommendation be confirmed or make such other order thereon as he may deem fit; and such order shall be final and conclusive for all purposes.

Vesting orders to be issued on establishment of claim of village committee.

45. A vesting order under section 27 shall be issued in favour of the village committee for any Crown land in respect of which the claim of that village committee has been established as hereinbefore provided.

Failure to claim Crown land is presumptive proof that such land is not vested under section 39 of Chapter 198.

46. Where no claim has been preferred under this Part by a village committee in respect of any Crown land, it shall be presumed for all purposes that such land is not vested in that village committee under section 39 of the Village Communities Ordinance.

#### PART V.

##### *Special leases by Local Authorities of lands vested in such Authorities.*

Special leases by local authorities of lands vested in such authorities.

Cap. 320.

47. (1) A local authority may, with the sanction of the Executive Committee granted generally in respect of any class of cases or specially in any particular case, lease any land vested in such authority by or under this Ordinance or any other written law, subject to the condition that all or any of the provisions of Chapters V, VI, VII, VIII and IX of the Land Development Ordinance shall apply to the land leased by the local authority as to a protected holding alienated under that Ordinance; and upon the lease of any land subject to such condition, the provisions of the Land Development Ordinance specified in the instrument of lease shall apply accordingly; and for the purposes of such application, the lease shall be deemed to be an alienation, the leased land shall be deemed to be a protected holding and the lessee the owner of that holding, and the Chairman of the local authority shall be deemed to be the Government Agent and may exercise, discharge or perform in respect of the leased land or the lessee any power, duty or function vested in, imposed upon or assigned to the Government Agent under the Land Development Ordinance.

(2) The sanction of the Executive Committee shall be sufficient to enable any local authority to lease in the manner set out in sub-section (1) any land vested in such authority notwithstanding anything in any written law whereby such local authority is constituted or established and notwithstanding the absence in any such written law of any provision conferring on such local authority the power to hold or lease land.

(3) Every instrument of lease under sub-section (1) shall contain a recital to the effect that the Executive Committee has granted its sanction to the lease and from such recital it shall be presumed, until the contrary is proved, that the sanction of the Executive Committee to the lease was duly obtained.

Cancellation of Karaiyur slum area leases and provision for issue of new leases.

48. (1) Where, in any indenture of lease executed prior to the commencement of this Ordinance by the Urban Council of Jaffna, provision has been inserted that the lessee shall hold the leased land until such time as legislation for the cancellation of that lease is enacted or for a term of years or until the death of the lessee, whichever event is earlier, this Ordinance shall be deemed to be the legislation referred to in that indenture of lease; and every such lease which has not been determined prior to the commencement of this Ordinance in accordance with the said provision or any other provision contained in the indenture creating such lease is hereby cancelled; and such cancellation shall be binding on the lessor and on the lessee and on the nominee, if any, of the lessee under the indenture of lease and on every person claiming or purporting to claim from, through or under the lessee.

(2) Every lessee whose lease is cancelled under sub-section (1) shall be entitled to obtain from the Urban Council of Jaffna a lease for the same land as that demised to him under the lease so cancelled.

In this sub-section, "lessee" includes the nominee of a lessee who had died prior to the date of the commencement of this Ordinance in a case where no indenture of lease has been executed in favour of such nominee prior to that date.

(3) For the purposes of the application of the provisions of section 47 to any lease referred to in sub-section (2), the land leased and demised by His Majesty to the Urban District Council of Jaffna, by the indenture of lease more particularly described in the First Schedule, for the purpose of housing people resident within the area commonly called the Karaiyur slum area within the town of Jaffna, shall be deemed to be land vested in the Urban Council of Jaffna by this Ordinance; and it is hereby declared that the sanction of the Executive Committee is granted for the execution of all such leases and that a recital of the grant of such sanction may be made in any indenture executed for the purpose of any such lease.

Schedule I.

(4) Save as hereinbefore provided, any lease executed by the Urban Council of Jaffna and referred to in sub-section (1) and the lease by His Majesty to the Urban District Council of Jaffna referred to in sub-section (3) and the terms, conditions, covenants, provisions and stipulations of any indenture whereby any such lease was created, shall have the same force and effect and shall bind both the lessor and the lessee mentioned in any such indenture to the same extent as though this Ordinance had not been enacted.

## PART VI.

*Reservations.*

49. Subject as hereinafter provided, the Governor may, by Notification published in the *Gazette*, declare that any Crown land is constituted a Crown reservation for any one or more of the following purposes:—

Constitution of Crown reservations.

- (1) the protection of the source, course or bed of any public stream;
- (2) the protection of springs, tanks, reservoirs, lakes, ponds, lagoons, creeks, canals, aqueducts, eas, channels (whether natural or artificial), paddy fields and land suitable for paddy cultivation;
- (3) the protection of the foreshore;
- (4) the construction or protection of roads, paths, railways and other means of internal communication;
- (5) the construction or protection of quays, landing places, hospitals, burial grounds, cemeteries, markets, schools, libraries, museums or other public works;
- (6) the prevention of the erosion of the soil;
- (7) the preservation of water supplies;
- (8) the defence of Ceylon;
- (9) any other prescribed purpose:

Provided that no Crown land shall be so constituted a Crown reservation unless that land—

- (a) has been surveyed and depicted on a plan prepared by or under the authority of the Surveyor-General; and
- (b) has been declared to be the property of the Crown under the Land Settlement Ordinance or under any Ordinance repealed by that Ordinance; or
- (c) has been declared to be the property of the Crown by a decree of court in a reference case under the Waste Lands Ordinances, 1897 to 1903; or
- (d) has been acquired by the Crown under the provisions of the Land Acquisition Ordinance; or
- (e) has been resumed by the Crown under the provisions of the Lands Resumption Ordinance.

Cap. 319.

Cap. 203.

Cap. 313.

50. Subject as hereinafter provided and without prejudice to the powers conferred by section 49, any Crown land which is immediately adjacent to a public stream and lies within a prescribed distance therefrom measured in such manner as may be prescribed shall, for the purposes of this Ordinance, be deemed to be a Crown reservation constituted by notification under section 49; and all the provisions of this Part shall apply accordingly to any such reservation:

Crown reservations for public streams.

Provided that this section shall not apply to any Crown land unless such land falls within the category of any class of land referred to in paragraphs (b), (c), (d), and (e) of the proviso to section 49.

51. The Governor may, by notification published in the *Gazette*, declare that any Crown reservation (other than a road reservation) shall cease to be a Crown reservation with effect from a date to be specified in the notification.

Cancellation of Crown reservations.

52. No person shall, by possession or user of any Crown reservation after the commencement of this Ordinance, acquire any prescriptive title to any such reservation against the Crown; and neither the Prescription Ordinance nor any other law relating to the acquisition of rights by virtue of possession or user shall apply to any such reservation after the commencement of this Ordinance.

Title to Crown reservations cannot be acquired by possession or user. Cap. 55.

Crown not liable to pay compensation for improvements effected on reservations after commencement of Ordinance.

53. Subject as hereinafter provided, no person shall be entitled to any compensation from the Crown in respect of any improvements effected at any time after the commencement of this Ordinance on any Crown reservation; nor shall any claim for any such compensation be at any time entertained by any court:

Provided that nothing herein contained shall affect or be deemed or construed to affect the right of any person to claim or receive compensation from the Crown in respect of any improvements effected on any Crown reservation after the commencement of this Ordinance under or by virtue of a contract with the Crown expressly providing for the payment of compensation in respect of such improvements.

Summary ejection of offenders in unlawful possession of Crown reservations. Schedule II.

54. (1) Where any person who has been convicted under any written law for the time being included in the Second Schedule of any offence committed in or upon a Crown reservation is in occupation or possession of that reservation or any part thereof, a Magistrate having local jurisdiction over the area in which such offence was committed shall, on the application of the Government Agent, by order direct the Fiscal or a Police Officer to eject such person from that reservation and to deliver possession thereof to the Government Agent or to his representative.

(2) A Fiscal or Police Officer charged with the execution of an order of ejection made by a Magistrate under this section shall comply with the directions of the Magistrate and shall make due return in the prescribed form furnishing the prescribed particulars relating to the execution of the order.

(3) In the execution of an order of ejection a Fiscal or Police Officer or any other officer authorised by or accompanying the Fiscal or Police Officer may use such force as may be necessary to eject from the Crown reservation the offender against whom the order is made and any other person in possession or occupation of such reservation or part thereof on behalf or on account of the offender and to deliver possession of the reservation to the Government Agent or to his representative:

Provided that in a case where an appeal lies against the conviction of the offender, he shall not be ejected until the conviction has been affirmed in appeal or, if no appeal is preferred, until after the expiry of the time within which such appeal could have been preferred.

(4) The Governor may, by Proclamation published in the *Gazette*, amend or add to the Second Schedule; and that Schedule as so amended or added to shall have effect as though it were herein enacted.

## PART VII.

### *Road Reservations.*

Road reservations.

55. The following classes of Crown land shall be deemed to be road reservations for the purposes of this Ordinance:—

- (1) Crown land which is landmarked and described as a road reservation in any land-sale or other notice published in the *Gazette* prior to the commencement of this Ordinance under the hand of the Governor, the Colonial Secretary, the Land Commissioner, or any other officer of the Government;
- (2) Crown land which is shown or depicted as a road reservation in any plan prepared by or under the authority of the Surveyor-General prior to the commencement of this Ordinance;
- (3) Crown land constituted a Crown reservation for a road or path by notification of the Governor under section 49;
- (4) Crown land adjoining any road and reserved for the protection or benefit of that road;
- (5) all waste land which, not being private property, lies within a distance of 33 feet of the middle of a public carriage-way or cart-way or within 10 feet of the middle of a public path-way;
- (6) Crown land marked off and reserved for the construction of a path or road.

Cancellation of road reservations.

56. Subject as hereinafter provided and notwithstanding anything in any written law other than this Ordinance, the Governor may, by notification published in the *Gazette*, declare that any land shall cease to be a road reservation:

Provided that such declaration shall not be made except in such circumstances and in such cases as may be prescribed.



57. Subject as hereinafter provided and subject to the provisions of any written law by or under which any local authority is constituted or established—

Lease  
of road  
reservations.

- (1) a road reservation not situate within the administrative limits of any local authority may be leased by the Government Agent ;
- (2) a road reservation situate within the administrative limits of a local authority and not vested in that local authority may be leased by the Government Agent ;
- (3) a road reservation situate within the administrative limits of a local authority and adjoining any public thoroughfare referred to in section 56 (2) of the Urban Councils Ordinance, No. 61 of 1939, may be leased by the Government Agent with the sanction of that local authority ;
- (4) a road reservation situate within the administrative limits of a local authority and vested in that local authority may be leased by that local authority with the sanction of the Government Agent :

Provided that no road reservation referred to in paragraph (1) or paragraph (2) or paragraph (3) and adjoining a thoroughfare deemed to be a principal thoroughfare for the purposes of the Thoroughfares Ordinance shall be leased by the Government Agent except with the approval of the Director of Public Works and the sanction of the local authority, where such sanction is required by the preceding provisions of this section.

Cap. 148.

#### PART VIII.

##### *The Foreshore.*

58. The administration, control, custody and management of the foreshore are hereby declared to be vested in the Crown.

Administration  
of foreshore  
vested in  
the Crown.

59. Regulations may be made for the restriction and control of the use of the foreshore by members of the public.

Regulation  
of user of  
foreshore.

60. The Governor is hereby authorised—

Government  
authorised to  
construct  
works on  
foreshore, &c.

- (1) to construct quays, wharves, jetties or other public works along or out from the foreshore or in the bed of the sea adjacent thereto ;
- (2) to dredge the bed of the sea ;
- (3) to re-claim any part of the foreshore or bed of the sea ;
- (4) to erect buildings on any areas of land reclaimed from the sea ; and
- (5) to lease or otherwise dispose of any such reclaimed area.

61. The Governor may lease any part of the foreshore or bed of the sea if he is satisfied, after such inquiry as he may deem necessary, that such lease will not substantially prejudice the rights of the public thereto.

Power to  
lease foreshore  
and sea-bed.

62. A Government Agent or other prescribed officer may issue permits for the occupation for any period not exceeding one year of any part of the foreshore or bed of the sea.

Power to issue  
permits for  
temporary  
occupation of  
foreshore  
and sea-bed.

63. (1) The Governor may, by Proclamation published in the *Gazette*, proclaim any part of the foreshore as an area from or over which no sand, stone, coral or other substance shall be removed ; and thereupon no person shall remove from such area or from the bed of the sea adjacent thereto to a distance of one mile from the foreshore any sand, stone, coral or other substance without a licence from the Government Agent or other prescribed officer.

Power of  
Governor to  
proclaim area  
from which  
sea sand, &c.,  
may not be  
removed.

(2) Every such licence shall specify and define, as far as practicable, the place from which sand, stone, coral or other substance may be removed, and may set forth such prescribed terms and conditions (including a condition as to the payment of fees or money) subject to which sand, stone, coral or other substance may be removed.

64. It shall be lawful for a Government Agent to prohibit the removal of sand, stone, coral or other substance from any place on the foreshore adjoining or near any public road, thoroughfare, public work or public building, or adjoining or near any part of the Ceylon Government Railway, if such removal is, in his judgment, likely to injure such road, thoroughfare, public work, public building or railway ; and he shall cause notice of such prohibition to be given by such means as shall seem to him likely to give sufficient publicity thereto.

Power of  
Government  
Agent to  
prohibit  
removal of  
sand, &c., from  
any particular  
place on  
foreshore.

Penalty for unlawful removal of sand from foreshore, &c.

65. Any person who in contravention of the provisions of section 63 or contrary to the terms of any licence issued under that section, or in contravention of a prohibition under section 64 removes any sand, stone, coral or other substance, or causes, or assists in, such removal, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees, or to imprisonment of either description for a period not exceeding three months, or to both such fine and imprisonment.

Meaning of "removal of sand", &c.

66. The removal of sand, stone, coral or other substance contemplated by sections 63, 64 and 65 shall include the doing of any act upon any property, whether belonging to any person or persons whomsoever or otherwise, which causes the disturbance or displacement of sand, stone, coral or other substance on or from any place on the foreshore or bed of the sea aforesaid.

Appeals to the Governor.

67. In any case in which a Government Agent has refused to issue a licence under section 63, or has issued any such licence subject to a condition to which objection is taken by the licensee, or has issued a prohibition under section 64, an appeal shall lie by any person aggrieved to the Governor:

Provided that every such appeal shall be made within twenty-one days of such refusal, or imposition of condition, or prohibition, as the case may be:

Provided, further, that such appeal shall not affect the validity of any such prohibition pending the consideration of the appeal.

Proclamations and prohibitions issued under Chapter 310 deemed to be in force under this Ordinance.

68. (1) Any Proclamation issued under section 2 of the Seashore Protection Ordinance and in force immediately prior to the commencement of this Ordinance shall continue in force and have effect as though it were a Proclamation issued under section 63.

(2) Any prohibition issued under section 4 of the Seashore Protection Ordinance and in force immediately prior to the commencement of this Ordinance shall continue in force and have effect as though it were a prohibition issued under section 64.

Saving as to rights to foreshore.

69. Nothing in the preceding provisions of this Part shall be or be construed in derogation of any of the powers or rights of the Crown in respect of the foreshore, or the soil of the foreshore, or the territorial waters of Ceylon.

#### PART IX.

##### *Regulation and control of the use of the water of lakes and public streams.*

Interpretation of Part IX.

70. In this Part, unless the context otherwise requires—

"lake" includes a lagoon, swamp or other collection of still water, whether permanent or temporary, not being water contained in an artificial work;

"private lake" means a lake which is situate entirely within the boundaries of any private land;

"private stream" means any stream the source and entire course of which is within private land;

"public lake" means any lake other than a private lake;

"public stream" means any stream other than a private stream;

"stream" includes any river, creek or ela, whether perennial or intermittent, flowing in a natural channel, and any affluent, confluent or branch into or from which the stream flows;

"work" includes any dam, lock, tank, reservoir, weir, flume, race, channel (whether an artificial channel or a natural channel artificially improved), and any cutting, tunnel, pipe, sewer and any machinery and appliances.

Tanks may be proclaimed as lakes.

71. The Governor may, by Proclamation published in the *Gazette*, declare that any tank or reservoir described in that Proclamation shall be a lake for the purposes of this Part notwithstanding that such tank or reservoir is an artificial work; and, upon the publication of any such Proclamation, any reference in this Part to a lake shall be deemed to include a reference to the tank or reservoir described in that Proclamation.

Rights of Crown in waters of public lakes and streams.

72. The right to the use and flow and to the management and control of the water in any public lake or public stream shall, subject to the restrictions hereinafter mentioned, vest in the Crown. And in the exercise of that right, the Crown, by its officers and servants, may enter any land and take such measures as may be thought fit or as may be prescribed for the conservation and supply of such water as aforesaid and its

more equal distribution and beneficial use and its protection from pollution, and for preventing the unauthorised obstruction of public streams.

73. The right vested in the Crown by section 72 shall be subject to the following restrictions :—

- (1) it shall not be exercised in contravention of any right conferred on and lawfully exercisable by any person, company, corporation, board, or local authority by or under any written law other than this Ordinance or of any licence granted by the Crown ;
- (2) it shall be subject to the rights of the occupiers of land on the banks of public lakes and public streams as hereinafter defined ;
- (3) it shall be subject to the rights of the holders of permits issued under this Part of this Ordinance.

Restrictions to right of the Crown.

74. The occupier of land on the bank of any public lake or public stream shall have the right to use the water in that lake or stream for domestic purposes and for watering cattle or other stock ; and it shall not be necessary for the occupier to apply for or obtain a permit for any work used solely in respect of that right.

Rights of riparian proprietors.

75. It is hereby declared that the bed of a public lake or public stream is the property of the Crown :

Crown is owner of bed of public lake or stream.

Provided that nothing in the preceding provisions of this section shall affect or be deemed to affect the rights of any person claiming through or under any instrument of disposition executed before the commencement of this Ordinance.

76. (1) Subject as hereinafter provided, no person shall—
- (a) divert any water from a public lake or public stream ; or
  - (b) construct any work in, or upon the bank of, any public lake or public stream ; or
  - (c) construct any bridge or causeway in or over a public lake or public stream,

Permits to divert water and construct works and bridges.

except under authority of a permit issued, on behalf of the Crown, by the Government Agent or other prescribed officer :

Provided that no permit shall be required to authorise any person to divert any water from a public lake or a public stream in any case where such person is entitled so to divert such water under the Irrigation Ordinance or the provisions of any other written law.

Cap. 312.

(2) Every such permit shall be in such form and contain such conditions and provide for such payments as may be approved by the Land Commissioner either generally or in the circumstances of any particular case.

77. In considering an application for a permit under section 76, the Government Agent shall have regard to the following matters :—

- (1) the rights of riparian proprietors who are likely to be affected by the issue of the permit ;
- (2) the interests and requirements of the Crown and of any local authority concerned ;
- (3) the probability that the grant of the permit may prejudicially affect any work or proposal contemplated or undertaken by the Crown or by any local authority ; and
- (4) any other prescribed matter.

Matters to be taken into account in considering an application for a permit under section 76.

78. The Governor may appoint an Advisory Board to assist the Government Agent in the consideration of applications for permits under section 76. Any such Advisory Board may be appointed generally for any province or other area or to assist in the consideration of an application in any particular case.

Advisory Board.

79. The Government Agent shall, after consideration of an application for a permit under section 76, inform the applicant by letter whether his application has been allowed or disallowed ; and where such application has been allowed, the Government Agent shall, together, with such letter, transmit the permit to the applicant.

Communication of Government Agent's decision to applicant for permit.

80. (1) An applicant who has made application for a permit to divert any water from a public stream and is aggrieved—

- (a) by the disallowance of his application by the Government Agent ; or
- (b) by the terms of any condition inserted in the permit issued to him

Right of aggrieved applicant to appeal to District Court.

on the ground that the diversion, or proposed diversion of the water in question is not in excess of his legal rights or that

the said condition is in derogation of his legal rights, may, within one month of the receipt of the letter referred to in section 79, apply to the District Court having local jurisdiction over the place where the water is to be diverted from that public stream for a declaration of his legal rights in the matter in question; and such District Court shall have power, on such application and after such inquiry as the Court may deem necessary, to declare such rights and to give all necessary directions with regard to such licence and the conditions thereof so as to secure the legal rights of the applicant; and the Government Agent shall comply with and give effect to the directions of the District Court, whose order shall be final and not subject to any appeal to the Supreme Court.

(2) Save as provided in sub-section (1), the decision of the Government Agent to allow or disallow any application and the terms and conditions of any permit issued under this section shall not be subject to review by or appeal to any Court.

Validation  
of previous  
licences, &c.

81. Every licence, permit or other instrument issued and every agreement entered into prior to the commencement of this Ordinance which purports to authorise the commission of any act specified in paragraphs (a), (b) and (c) of section 76 (1) shall have effect as though such licence, permit, instrument or agreement were a permit issued under section 76 and as though the terms and conditions of any such licence, permit, instrument or agreement were the terms and conditions of a permit issued under that section; and every such licence, permit, instrument or agreement shall for all purposes be deemed to be a permit issued under section 76 and is hereinafter referred to by that name.

Penalty for  
unlawful  
diversion of  
water of  
public lake  
or stream, &c.

82. Any person who commits any act specified in paragraphs (a), (b) and (c) of sub-section (1) of section 76 except under authority of a permit issued or deemed to be issued under that section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

Cancellation  
of permits.

83. (1) Any permit issued under section 76 or deemed to be issued under that section may be cancelled by a Government Agent—

- (a) in the event of a breach of any term or condition inserted or deemed to be inserted in such permit; or
- (b) after three months' notice in writing to the permit-holder or other person lawfully exercising any rights under any such permit.

(2) The provisions of sub-section (1) (b) shall have effect notwithstanding that any permit referred to in sub-section (1) contains a clause requiring notice but not specifying the period of such notice, or a clause requiring a period of notice greater or less than three months, or no clause for the termination of such permit whether after notice or otherwise.

#### PART X.

##### *Recovery of payments due to the Crown and cancellation of instruments of disposition.*

Certificate of  
Government  
Agent.

84. A certificate to the effect that a specified sum of money was due to the Crown from a specified person on a specified date under an instrument of disposition shall, if it purports to be signed by a Government Agent, be *prima facie* proof of the facts stated therein, and shall be admissible as evidence of such facts in any court of law without proof of the signature of the Government Agent.

Application of  
summary  
procedure for  
recovery of  
moneys due to  
Crown under  
instruments of  
disposition.  
Cap. 86.

85. Any money due to the Crown under any instrument of disposition may be recovered by civil action instituted by the Attorney-General by way of summary procedure under sections 703 to 711 and section 829A of the Civil Procedure Code; and, for the purposes of such recovery and the application of the provisions of that Code, section 703 of the Code shall have effect as though there were substituted for the words "or instrument or contract in writing for a liquidated amount of money," the words "or instrument or contract in writing for a liquidated amount of money, or certificate of a Government Agent under section 84 of the Crown Lands Ordinance,".

Provided that nothing in the preceding provisions of this section shall affect or be deemed or construed to affect the

right of the Crown to recover any moneys due to the Crown under any instrument of disposition in any other manner or by any other procedure prescribed by any written law other than this Ordinance.

86. (1) Where in any instrument of disposition, provision is made to the effect that the disposition effected thereby may be cancelled or determined or shall cease in the event of any moneys due to the Crown under that instrument remaining unpaid for any period of time specified therein and where such moneys remain unpaid for the period so specified, the Government Agent may by endorsement on the instrument of disposition cancel the disposition effected thereby; and such disposition shall be determined accordingly:

Provided that no such endorsement shall be made on any instrument of disposition until the person liable for the payment of moneys due under that instrument has been afforded an opportunity of showing cause against the proposed cancellation.

(2) Regulations may be made prescribing the procedure to be observed in cancelling instruments by endorsement in the manner set out in sub-section (1).

87. Where any instrument of disposition has been cancelled under section 86, the Government Agent may cause a notice to be served on any person in possession or occupation of the land which was disposed of by that instrument calling upon such person forthwith to vacate the land.

88. Where the person on whom a notice has been served under section 87 fails forthwith to vacate the land in terms of the notice, such person may be ejected from that land in accordance with the procedure prescribed under sections 120 to 127 of the Land Development Ordinance which shall apply as though the instrument of disposition were a grant under that Ordinance and as though the land disposed of by that instrument were a holding under that Ordinance.

89. In this Part, "instrument of disposition" means an instrument of disposition executed before or after the commencement of this Ordinance.

Cancellation of instruments of disposition for non-payment of moneys due to the Crown.

Notice to issue on party in occupation to vacate land.

Ejection where occupant fails to vacate land.

Cap. 320.

Application of Part X to all instruments of disposition.

## PART XI.

### *Administration.*

90. (1) The Land Commissioner shall be the officer of Government responsible for and charged with the administration of this Ordinance.

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

91. (1) Any officer of Government entrusted with any duties in respect of Crown land shall, in the discharge of such duties, be subject to the direction and control of the Land Commissioner.

(2) Any officer of Government entrusted with any duties in respect of Crown land shall, if so directed by the Land Commissioner, refer to him for decision any question of doubt or difficulty in connexion with the discharge of such duties.

(3) Any direction or decision of the Land Commissioner shall be duly complied with or given effect to by any such officer of Government.

92. (1) The Governor may appoint a Deputy Land Commissioner, one or more Assistant Land Commissioners, and such other officers and servants as may from time to time be required for the purposes of this Ordinance.

(2) Subject to any general or special directions of the Land Commissioner, the Deputy Land Commissioner may exercise, perform, or discharge any power, duty, or function of the Land Commissioner under this Ordinance or under any regulation.

(3) The Land Commissioner may either generally or specially authorise any Assistant Land Commissioner to exercise, perform, or discharge any power, duty, or function of the Land Commissioner under this Ordinance or under any regulation.

93. The Land Commissioner and every officer and servant appointed under section 92 shall be deemed to be public servants within the meaning of the Penal Code.

Administration of Ordinance.

Powers of Land Commissioner.

Power of Governor to appoint officers and servants.

All officers, &c., to be public servants. Cap. 15.

## PART XII.

*Regulations.*

Regulations.

94. The Executive Committee may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

Matters which may be provided for by regulation.

95. In particular and without prejudice to the generality of the powers conferred by the preceding section, regulations may be made for or in respect of all or any of the following matters :—

- (1) any matter stated in or required by this Ordinance to be prescribed ;
- (2) the administration, management, regulation, protection and control of all Crown land, Crown reservations and road reservations and the foreshore and of all waters vested in the Crown ;
- (3) all forms required for the purposes of this Ordinance including the forms of grants, leases, permits, vesting orders and other dispositions of Crown land or of waters vested in the Crown ;
- (4) the conditions to be attached to grants, leases, permits, vesting orders and other dispositions of Crown land or waters vested in the Crown ;
- (5) free grants of Crown land ;
- (6) sales, leases and other dispositions whether generally or on preferential terms and the conditions and procedure incidental to or connected with such sales, leases and dispositions ;
- (7) the alienation or other disposition of land over 5,000 feet in elevation ;
- (8) the survey and land-marking of Crown land and the foreshore ;
- (9) the principles on which rents or other payments under leases or permits shall be fixed and the periods after which such rents or payments may be revised ;
- (10) the localities or the circumstances in which Crown land shall not be disposed of by grant ;
- (11) the advertisement of sales and other dispositions of Crown land ;
- (12) the exchange of Crown land for private land ;
- (13) the grant of Crown land or of any rights or facilities over Crown land to the naval or military authorities or to any local authority ;
- (14) leases and other dispositions of town allotments ;
- (15) leases of Crown land for agricultural purposes ;
- (16) special leases by local authorities of lands vested in such authorities and the terms and conditions of such leases ;
- (17) appeals to the Executive Committee under Part IV., the procedure on and disposal of such appeals ;
- (18) the grazing of cattle on Crown land and the provision of pasturage on such land ;
- (19) water-supply to Crown land and water-service schemes ;
- (20) the produce of Crown land and the removal and disposal of such produce ;
- (21) the disposal of land presumed to be the property of the Crown, and the investigation of claims to such land ; and the disposal of Crown land to persons who have encroached on Crown land ;
- (22) deposits or survey fees which must accompany applications for grants, leases, permits and other dispositions of Crown land ;
- (23) fees payable or chargeable for or in respect of all matters under this Ordinance and the recovery of fees and rents ;
- (24) the alienation of the right to mine or gem in or over Crown land ;
- (25) the alienation of the right to mine or gem in or over land disposed of by the Crown with a reservation to the Crown of mining or gemming rights ;
- (26) the grant of facilities to use Crown land for the construction of roads, paths, trolley-ways, irrigation channels, waterways, aerial ropeways, telephone lines, pipe lines and power transmission lines or for the temporary or partial utilisation of Crown land for any other purpose ;
- (27) the circumstances in which Crown reservations and road reservations may be cancelled and cease to be reserved ;

- (28) the lease of Crown reservations and road reservations, including the period of such leases and the terms and conditions to be attached thereto ;
- (29) the grant of facilities to take water from any public lake or public stream or spring ;
- (30) the method of describing Crown land in grants, leases and permits ;
- (31) the preparation of diagrams to facilitate the identification of Crown land disposed of by grant, lease or permit ;
- (32) the declaration of acts which will be offences if committed on any Crown land, Crown reservation, road reservation or the foreshore ;
- (33) the alienation or other disposition of *chena* rights ;
- (34) the issue of *chena*, *nomile*, or other permits in respect of Crown land ;
- (35) appeals to the District Court under section 80 ;
- (36) licences for the removal of sand or other substances from the foreshore or the bed of the sea or of any public lake or stream ;
- (37) any other matters incidental to or connected with the matters enumerated above.

96. Provision may be made by regulation that the contravention of any regulation shall constitute an offence punishable with a fine not exceeding one hundred rupees or with imprisonment of either description for a period not exceeding six months, or with both such fine and imprisonment.

Offences under regulations.

97. No regulation shall have effect until—

- (a) that regulation has been approved by the State Council and ratified by the Governor ; and
- (b) notification of such approval and ratification has been published in the *Gazette*.

Regulations must be approved by State Council and ratified by Governor.

98. Upon the publication in the *Gazette* of a notification to the effect that any regulation has been approved by the State Council and ratified by the Governor, that regulation shall be as valid and effectual as though it were herein enacted.

Regulations to have statutory force.

99. Regulations may be made by the Executive Committee and submitted to the State Council for approval and to the Governor for ratification when this Ordinance becomes law and takes effect as such in accordance with the provisions of Article 74 of the Ceylon (State Council) Order in Council, 1931, and before the date appointed by the Governor under section 1 as the date on which this Ordinance shall come into operation : provided that no such regulation shall come into operation before that date.

Power to make regulations before commencement of Ordinance.

#### PART XIII.

##### *Miscellaneous.*

100. It shall be lawful for the Governor to take any land or building on lease on such terms and conditions as the Governor may deem proper or reasonable in the circumstances of any particular case.

Power of Governor to take lands on lease.

101. No grant, lease or other disposition shall be made of any Crown land situated at an elevation exceeding 5,000 feet except in such cases and for such purposes as may be prescribed.

Disposition of Crown land over 5,000 feet in elevation.

102. It is hereby declared that all roads, road reservations and Crown reservations are the property of the Crown.

Title to roads and reservations vested in the Crown.

103. Where any land—

- (1) is, after the commencement of this Ordinance, declared to be the property of the Crown under the provisions of the Land Settlement Ordinance ; or
- (2) is, after the commencement of this Ordinance, acquired by the Crown under the provisions of the Land Acquisition Ordinance ; or
- (3) is, after the commencement of this Ordinance, resumed by the Crown under the provisions of the Lands Resumption Ordinance ; and
- (4) has, at any time prior to the date of such declaration, acquisition or resumption, as the case may be, been land-marked with boundary marks by or under the authority of the Surveyor-General or is so land-marked at any time after any such date,

No prescriptive title to land settled, &c.

Cap. 319.

Cap. 203.

Cap. 313.

no person shall, by possession or user of such land, acquire any prescriptive title thereto against the Crown.

104. The Governor may accept any donation of any land gifted to His Majesty or to the Crown or to the Government of Ceylon or to any Government Department.

Power of Governor to accept donations.

Delegation of Governor's powers.

105. The Governor may, in such manner and in such cases as may be prescribed, delegate to the Minister or to the Land Commissioner or other prescribed officer, any power or duty conferred or imposed upon him, or any authority vested in him, or any discretion or function entrusted or assigned to him, by or under this Ordinance.

Covenants in instruments of disposition to bind minor if it is executed with assistance of curator.

106. Any contract, covenant or agreement with the Crown entered into by a minor in any instrument issued or executed under this Ordinance for or in connexion with the disposition thereunder of any Crown land or of any right or interest of the Crown in any land or water shall bind such minor and shall not be avoided by reason only of his minority if such contract, covenant or agreement is so entered into by him with the assistance of a curator duly appointed by a court of competent jurisdiction or by the Government Agent as hereinafter provided.

Government Agents authorised to appoint curators.

107. A Government Agent is hereby authorised to appoint, by writing under his hand, any person to be the curator of a minor for the purposes of the last preceding section.

Alluvial and other accretions.

108. Any alluvial or other accretion to any land disposed of by the Crown by any instrument of disposition executed before or after the commencement of this Ordinance shall, together with all rights appertaining or belonging to such accretion, be the property of the Crown and is hereby declared to be vested in the Crown.

Power to inspect Crown lands after disposition.

109. The Government Agent or any officer authorised by him in writing may at any time enter and inspect any Crown land which has at any time been disposed of by grant, lease, permit or other instrument of disposition.

#### PART XIV.

##### *Interpretation, Repeals and Savings.*

Interpretation.

110. (1) In this Ordinance, unless the context otherwise requires—

“air force authority” means His Majesty’s Principal Secretary of State for Air, or any person authorised by such Secretary of State to represent him for the purposes of Part III. and includes any other person prescribed as an air force authority for the purposes of this Ordinance;

“commencement”, when used with reference to this Ordinance, means the date on which the Ordinance is brought into operation by Proclamation under section 1;

“Crown land” means all land in Ceylon to which the Crown is lawfully entitled or which may be disposed of by the Crown and includes all rights and privileges attached or appertaining to such land;

“Crown reservation” means a reservation constituted or deemed to be constituted under section 49;

“disposition”, with its grammatical variations and cognate expressions, means any transaction of whatever nature affecting land or the title thereto and includes any conveyance, transfer, grant, surrender, exchange, lease or mortgage of land;

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

“foreshore” means the shore of the Island of Ceylon between high-water mark and low-water mark;

“Government Agent” includes an Additional or Assistant Government Agent and any other prescribed officer;

“grantee” means the person to whom any Crown land or right or interest in such land is disposed of by an instrument of disposition;

“instrument of disposition” means any instrument or document whereby any disposition of Crown land is effected and includes a grant, lease, permit or licence relating to Crown land;

“lake” means a lake as defined in section 70 and includes any tank proclaimed under section 71.

“land” includes—

- (a) any interest in land;
- (b) the bed of any lake or stream;
- (c) things attached to the earth or permanently fastened to anything attached to the earth;
- (d) any interest in crops growing or to be grown on land;

“Land Commissioner” means the Land Commissioner appointed under section 3 of the Land Development Ordinance



“ local authority ” means a Municipal Council, a District Council, a Local Board, a Sanitary Board, a Village Committee, or any other authority prescribed as a local authority ;

“ military authority ” means His Majesty’s Principal Secretary of State for the War Department, or any person authorised by such Secretary of State to represent him for the purposes of Part III. and includes any other person prescribed as a military authority for the purposes of this Ordinance ;

“ mineral ” includes gold, silver and precious stones ;

“ Minister ” means the Minister of Agriculture and Lands ;

“ naval authority ” means the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Northern Ireland referred to in section 5 of the Admiralty Lands Ordinance or any person authorised by such Commissioners to represent them for the purposes of Part III. and includes any other person prescribed as a naval authority for the purposes of this Ordinance ;

Cap. 255.

“ prescribed ” means prescribed by this Ordinance or by any regulation made thereunder ;

“ public lake ” means a public lake as defined in section 70 ;

“ public stream ” means a public stream as defined in section 70 ;

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

“ road reservation ” means any Crown land deemed to be a road reservation under section 55 ;

“ vesting order ” means an order made by the Governor under section 27.

(2) The use of the expression “ land ” in any provision of Part I or of Part XIII. shall not be in derogation of any right, power or authority vested in the Governor by any such provision to dispose of any interest in any land or to take any such interest on lease or to accept any surrender or donation of any such interest.

111. The provisions of written law specified in the first column of the Third Schedule are hereby repealed or amended in the manner and to the extent specified in the second column of that Schedule.

Repeals, &c.  
Schedule III.

112. (1) Save as provided in the last preceding section, nothing in this Ordinance shall affect the provisions of—

Savings.

(a) The Forest Ordinance,

Cap. 311.

(b) The Irrigation Ordinance, and

Cap. 312.

(c) The Land Development Ordinance.

Cap. 320.

(2) Nothing in the Crown Lands (Claims) Ordinance shall in any way abridge or affect or be deemed to abridge or affect any power or authority conferred on the Governor by or under this Ordinance.

Cap. 318.

(3) Nothing in this Ordinance shall in any way abridge or affect or be deemed to abridge or affect the prerogative of the Crown in relation to the Crown lands and forests of Ceylon.

### FIRST SCHEDULE.

(Section 48.)

An indenture of lease dated the 10th and 24th days of September, 1935, whereby His Excellency Sir Francis Graeme Tyrrell, K.B.E., C.M.G., the then Officer Administering the Government of Ceylon, acting for and on behalf of his late Majesty King George the Fifth, leased and demised to the Urban District Council, Jaffna, for the purpose of housing people residing at Karaiyur within the Jaffna town within the area commonly called the Karaiyur slum area and thereby improving the sanitary condition of the said slum area, the following land :—

All that allotment of Crown land called Reclamation Ground in Karaiyur, within the Urban Council limits of Jaffna, Jaffna District, Northern Province, bounded as follows :— North by reclamation grounds said to be Crown, reservation along Beach Road and a road reservation; east by reservation for a road; south by reservation along Reclamation Road; west by reclamation grounds said to be Crown; containing in extent exclusive of road reservation twelve acres, three roods and ten perches and seven tenths of a perch (A12. R3. P10·7) and more particularly delineated and described in Lease Plan No. 5,764 dated the 27th day of August, 1935, authenticated by R. W. E. Ruddock, Acting Surveyor-General.

## SECOND SCHEDULE.

(Section 54.)

Cap. 148.  
Cap. 311.  
Cap. 314.

The Thoroughfares Ordinance.  
The Forest Ordinance.  
The Crown Landmarks Ordinance.

## THIRD SCHEDULE.

Repeals and Amendments.

(Section 111.)

I.	II.
Provision of written law.	Extent of repeal or amendment.
1. The Heavy Mineral Sand Ordinance (Chapter 166)	The whole Ordinance is repealed
2. The Seashore Protection Ordinance (Chapter 310)	The whole Ordinance is repealed
3. The Forest Ordinance (Chapter 311)	In the definition of "reserved forest" in section 78, paragraph (b) and paragraph (c) are omitted, and paragraph (d) is renumbered as paragraph (b)
4. The Irrigation Ordinance (Chapter 312)	Section 59 is repealed
5. The Definition of Boundaries Ordinance (Chapter 315)	Section 4 is repealed
6. The Crown Grants (Authentication) Ordinance (Chapter 317)	The whole Ordinance is repealed
7. The Crown Lands Encroachments Ordinance (Chapter 321)	Sections 8, 9 and 10 are repealed

*Objects and Reasons.*

The object of this Bill is to provide a comprehensive code for the alienation, protection and administration of Crown lands in Ceylon. It has also been considered necessary to make provision for the administration and control of the inland waters of the Island and to declare and define the rights of the Crown, both proprietary and as custodian for the public, in that class of immovable property known to the Roman-Dutch law as *res publicae*. The Bill further provides for the vesting of land in naval, military, air force and local authorities and for the management and protection of Crown lands vested in such authorities for administrative or other purposes.

2. The power of the Governor to alienate Crown lands is derived from Article VI of the Letters Patent which reads as follows:—

"The Governor, in Our name and on Our behalf, may make and execute, under the Public Seal of the Island, grants and dispositions of any lands which may lawfully be granted or disposed of by Us within the Island: Provided that every such grant or disposition be made in conformity either with some law in force in the Island or with some Instructions addressed to the Governor under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, or with some regulation in force in the Island."

3. Though claims made by individuals to Crown lands are dealt with under the Land Settlement Ordinance (Chapter 319) and the Crown Lands (Claims) Ordinance (Chapter 318) and though the alienation of land to peasants and middle-class Ceylonese is provided for in the Land Development Ordinance (Chapter 320), there is no general law in force in Ceylon providing for the alienation of Crown lands and the management and administration of such lands which are yet dealt with and disposed of by the Governor in accordance with Instructions received from the Secretary of State and reproduced as Appendix K to the General Orders of Government notwithstanding the fact that the entire subject of land administration has, since 1931, been vested in the Executive Committee of Agriculture and Lands under the Ceylon (State Council) Order in Council, 1931.

4. The principal purpose of this Bill is therefore to substitute a local code of laws for the Instructions of the Secretary of State and to enable the Executive Committee of Agriculture and Lands effectively to discharge the duties vested in that Committee under the new Constitution. The immediate effect of the enactment of this Bill as an Ordinance will be to dispense with the necessity for reference to the Secretary of

State in various matters of land administration and to secure that Crown lands in Ceylon should be alienated and administered entirely in accordance with local law without resort to a code of instructions which is, in many respects, both obsolete and incomplete. Further, the new code will enable the Executive Committee, by regulations approved by the State Council and ratified by the Governor, to give legal effect to its decisions on matters of policy, procedure and detail which are unprovided for in the existing Instructions.

5. Part I of the Bill deals generally with grants, leases and other dispositions of Crown land. This Part together with cognate regulations framed under Clause 194 will entirely supersede the Instructions of the Secretary of State. Clause 21 provides that the use of the public seal of the Island, required by Article VI of the Royal Instructions, will be necessary only in such cases and circumstances as will be prescribed by regulations. Clause 4 is intended to encourage the partition of Crown lands originally alienated by grant but later possessed in common. The Clause provides for the surrender of such land by the co-owners and for the issue of new Crown grants to each co-owner for a divided share of the land. Clause 6 provides for the grant or lease of land for charitable, educational, philanthropic, religious, scientific and other prescribed purposes; and land so granted or leased may later be surrendered to the Crown by a person authorised in that behalf by a court of competent jurisdiction in any case where the grantee, lessee or other person entitled to the possession of the land cannot be found or ascertained (Clause 7). Covenants and conditions inserted in an instrument of disposition run with the land and bind all persons claiming through or under the original grantee (Clause 11). A minor will be bound by the covenants and conditions inserted in an instrument of disposition (Clause 12) and can enter into a valid contract with the assistance of a curator appointed in the ordinary way by a Court (Clause 106), or by a Government Agent (Clause 107). In addition to grants and leases, *permits* will be issued for the occupation of Crown land and *licences* to take or obtain any substance found in such land (Clause 2). Clause 20 provides for the rectification of errors in instruments of disposition.

6. Part II of the Bill prescribes simple procedure for the execution and authentication of instruments of disposition. The Crown Grants (Authentication) Ordinance (Chapter 317), which will be repealed (Clause 111), applies only to grants and leases. All other documents have therefore to be signed by the Governor personally under the existing law. Under the new law, only Crown grants and major leases are required to be signed by the Governor (Clause 22); other instruments of disposition will be signed by a prescribed officer. Clause 22 permits the use of a stamped facsimile of the Governor's signature and the mode of authentication has been considerably simplified (Clause 24).

7. Part III empowers the Governor to vest Crown land in naval, military, air force or local authorities. Clause 29 makes it clear that such a "vesting" is for purposes of administration only, the title to the soil remaining in the Crown. Clause 30 prescribes the cases and circumstances in which a vesting order may be revoked. A number of Ordinances make special provision for the protection, preservation and survey of Crown lands. Clause 34 provides that such Ordinances can be applied; with necessary modifications and adaptations, to land vested in any naval, military, air force or local authority. The purpose of Clause 35 is to enable the Land Commissioner to ask for a survey of land vested in a local authority when he has reason to believe that such land has been encroached upon and that suitable legal action should be taken for the protection of the vested land and the interest of the Crown therein.

8. Part IV prescribes necessary machinery for preparing a list of Crown lands vested in village committees under the Village Communities Ordinance (Chapter 198) as amended by Ordinance No. 60 of 1938. All immovable property "enjoyed or controlled by the inhabitants" at the commencement of the Village Communities Ordinance is by section 39 thereof vested in the Village Committee. As no authentic records exist to show what Crown lands have been so vested or are claimed as so vested, it is proposed (Clause 37) that every Village Committee shall before a prescribed date transmit to the Government Agent a schedule of such lands. The Government Agent will consider the claim of the Village Committee and make his recommendation thereon. A Village Committee can appeal to the Executive Committee against the recommendation of the Government Agent (Clause 9); but the final decision lies

with the Governor. It will thus be possible, within a reasonable time after the prescribed date, to know exactly what Crown lands are vested in Village Committees.

9. The object of Part V is to enable a local authority to lease lands vested in such authority for the purpose of housing the poor and clearing slum areas, &c. The provisions of Chapters V, VI, VII and VIII of the Land Development Ordinance can be made applicable to such leases, with necessary modifications, as though they were alienations under that Ordinance (Clause 47). Clause 48 cancels certain leases issued by the Jaffna Urban Council, in anticipation of this Bill, of Crown land granted to that Council for housing persons resident within the area commonly called the Karaiyur slum area. The cancelled leases will be replaced by leases issued under Part V of the new law.

10. Part VI deals with Crown reservations in general and Part VII with road reservations. Crown land can be constituted a Crown reservation for any purpose mentioned in Clause 49. Crown land which is adjacent to a public stream and lies within a prescribed distance therefrom is constituted a Crown reservation (Clause 50). The other provisions of these two Parts are designed to ensure the protection and to facilitate the administration of Crown reservations and road reservations. Prescriptive title cannot be acquired to a Crown reservation by possession or user thereof *after* the Bill becomes law (Clause 52). Under the existing law (section 67 of the Thoroughfares Ordinance, Chapter 148), no prescriptive title can be acquired in respect of the possession or user of a road reservation.

11. Part VIII deals with the foreshore. The administration, control, custody and management of the foreshore are by Clause 58 vested in the Crown, and regulations may be made for the restriction of the use of the foreshore by members of the public (Clause 59). As it is intended that this Part should deal with all matters relating to the use of the foreshore, it has been found necessary to repeal the Seashore Protection Ordinance (Chapter 310) and the Heavy Mineral Sand Ordinance (Chapter 166). The material part of the former Ordinance is reproduced, with amendments and modifications, in Clauses 63 to 67 of the Bill.

12. Part IX provides for the regulation and control of the use of the water of lakes and public streams. The provisions relating to public streams have, to some extent, been adapted from similar legislation in South Africa, where the Roman-Dutch law prevails. A "private stream" is defined as any stream the source and entire course of which lie within private land (Clause 70). All other streams are public streams. Lakes include lagoons and proclaimed tanks (Clause 71). Clause 75 is a declaration by statute of judicial decisions of the Supreme Court to the effect that the bed of a public lake or public stream is the property of the Crown. Clause 72 vests in the Crown the right to the use and flow and the management of the water in any public lake or public stream. Clause 74 declares the rights of riparian proprietors and Clause 76 provides for the issue of permits to divert water, construct bridges, &c. An applicant who has been refused a permit to divert water or objects to the terms and conditions inserted therein can appeal to a District Court (Clause 80). The provisions of Clause 80 are derived from section 59 of the Irrigation Ordinance (Chapter 312); and that section has accordingly been repealed.

13. Part X provides that payments due to the Crown under instruments of disposition can be recovered by way of summary procedure under the Civil Procedure Code. This Part further provides for the cancellation of instruments of disposition in cases where there has been a failure to pay moneys due to the Crown. The provisions of the Land Development Ordinance (Chapter 320) will be applied for the purpose of ejecting from Crown lands persons who remain in unlawful possession thereof after a disposition has been determined for non-payment of Crown dues. In all other cases, resort will be made to the Courts by way of regular action for the cancellation of dispositions and the ejectment of persons in unlawful occupation of Crown lands.

14. Part XI makes provision for the administration of the new law. The Land Commissioner is to be entrusted with the responsibility and he will function under the general control of the Executive Committee of Agriculture and Lands. All other officers of the Department entrusted with duties in respect of Crown land will be subject to the direction of the Land Commissioner, who will advise them on questions of doubt or difficulty (Clause 91).

15. Part XII deals with Regulations. Clause 95 prescribes numerous matters for which regulations will be made. The list has been made as exhaustive as possible as the Bill merely sets out the general principles of the new law. Matters of detail and procedure will be prescribed by regulations which will, *inter alia*, provide for everything in the Instructions of the Secretary of State which has not been embodied in the clauses of the Bill.

16. Part XIII provides for a number of miscellaneous matters. Clause 105 empowers the Governor to delegate powers to the Minister for Agriculture and Lands, or to the Land Commissioner or to some other prescribed officer. The Governor can take lands on lease (Clause 100) or accept donations of land gifted to His Majesty (Clause 104). The alienation of land over 5,000 feet in elevation will only be permitted in prescribed cases and for prescribed purposes (Clause 101).

17. Clause 112 provides that the provisions of the new law will not affect the Forest Ordinance (Chapter 311), the Irrigation Ordinance (Chapter 312) and the Land Development Ordinance (Chapter 320) except to the extent specified in the Third Schedule.

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

Colombo, May 1, 1940.