



# Ceylon Government Gazette

Published by Authority.

No. 5,418—FRIDAY, JULY 17, 1896.

PART I.—General: Minutes, Proclamations, Appointments,  
and General Government Notifications.

PART II.—Legal and Judicial.

PART III.—Provincial Administration.

PART IV.—Marine and Mercantile.

PART V.—Municipal and Local.

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

## Part II.—Legal and Judicial.

	PAGE		PAGE
Passed Ordinances	...	Supreme Court Notices	...
Draft Ordinances	... 289	District Court Notices	... 302
Treaties, Conventions, &c.	...	Minor Court Notices	... 287
Notifications of Criminal Sessions of Supreme Court	... 288	Notices of Insolvency	... 306
List of Jurors	...	Notices of Fiscals' Sales	... 304
Appointment of Marshals	...	Miscellaneous Notices	...

NOTICE is hereby given that a suit has been instituted in the Court of Requests of Kegalla by twenty-four labourers of Damalagolla estate, against the proprietor thereof, under the Ordinance No. 13 of 1889, for the recovery of their wages amounting to Rs. 270.

WILLIAM DE SILVA,  
Chief Clerk.

This 6th day of July, 1896.

NOTICE is hereby given that a suit No. 2,766 has been instituted in the Court of Requests of Rakwana by sixty-six labourers of Aberfoyle estate, Rakwana, against the proprietor thereof, under the Ordinance No. 13 of 1889, for the recovery of their wages, which will have to be ascertained and determined on, and after the production by the superintendent, manager, or conductor of the said estate of the check-rolls of the said estate.

M. P. DE ALWIS,  
Chief Clerk.

This 7th day of July, 1896.

Page 287

NOTICE is hereby given that the Sittings of the Courts will be held at Pasyala from July 27 to August 1, 1896, both days inclusive.

PETER DE SARAM,  
Police Magistrate and Commissioner.  
Minor Courts,  
Avisawella, July 14, 1896.

NOTICE is hereby given that a suit has been instituted in the Court of Requests of Avisawella by the labourers of Ivies estate, against the superintendent in charge of the said estate, to recover the sum of Rs. 45 due to them as wages.

Court of Requests, J. W. DIAS,  
Avisawella, July 13, 1896. \* Chief Clerk.

NOTICE is hereby given that a suit has been instituted in the Court of Requests of Panwila by fifty labourers of Leangalla estate, Madulkele, against the proprietor thereof, under the Ordinance No. 13 of 1889, for the recovery of their wages amounting to Rs. 535.71.

Panwila, July 13, 1896.

M. S. RAMALINGAM,  
Chief Clerk.

B 1

WITH reference to the Notification dated July 6, 1896, published in *Gazette* No. 5,417 of July 10, 1896, Part II., page 265, I do hereby notify that the Criminal Session of the Hon. the Supreme Court of the Island of Ceylon, for the Districts of Puttalam, Chilaw, and Kalpitiya therein proclaimed, has been postponed to Monday, the 17th day of August, 1896.

Deputy Fiscal's Office,  
Chilaw, July 15, 1896.

B. CONSTANTINE,  
Deputy Fiscal.

**List of Uncertificated Insolvents in the District Court of Kandy for the Half-year ended June 30, 1896.**

Date.	No. of Case.	Name of Insolvent.	Residence.	Remarks.
January 20, 1896 ...	1,363 ...	Christomboge Don David de Alwis	Katukele, Kandy ...	Certificate suspended for 3 months.
April 20, 1896 ...	1,367 ...	Sinne Mardemuttu Kan-kani	Darawella, Dikoya...	do. for six months

District Court,  
Kandy, July 15, 1896.

J. H. DE SARAM,  
District Judge.

**Return of all Moneys received and paid out on account of Estates under Official Administration in the District Court of Kandy for the Half-year ended June 30, 1896.**

No. of Case.	Title of Case.	Amount received.		Amount paid out.	
		Rs.	c.	Rs.	c.
1,745 ...	Estate of Mrs. Sarah R. Judd	656	24	656	39
1,804 ...	Estate of K. Kistnesing	—	...	1,894	11
1,871 ...	Estate of T. B. Giriagama	2,711	0	1,765	23
953 ...	Estate of C. W. Robertson	270	0	250	32
1,884 ...	Estate of Kiritelembuwedara Bindu...	27	0	70	3

District Court,  
Kandy, July 15, 1896.

J. H. DE SARAM,  
District Judge.

**Statement of Uncertificated Insolvents in the District Court of Batticaloa for the Half-year ended June 30, 1896.**

Nil.

District Court,  
Batticaloa, July 10, 1896.

H. NEVILL,  
District Judge.

**Return of Testamentary Cases under Official Administration for the Half-year ended June 30, 1896.**

No. of Case.	Date of Appointment. 1896.	To whom granted.	Whose Estate.	Value of Estate. Rs. c.
262 ...	Jan. 16 ...	F. Vanderput, Secretary, District Court	K. M. Akamatu Levai, of Katankudy	8,225 0
278 ...	May 27 ...	Do.	P. Kadiramepodi, of Mageladitivu	2,115 0

District Court,  
Batticaloa, July 10, 1896.

H. NEVILL,  
District Judge.

## DRAFT ORDINANCES.

## M I N U T E.

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

An Ordinance for amending and codifying the Law relating to the sale of Goods.

Preamble.

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

## PART I.

## FORMATION OF THE CONTRACT.

*Contract of Sale.*

Sale and agreement to sell.

1 (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called the price. There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called "a sale"; but where the transfer of the property in the goods is to take place at a future time, or subject to some condition thereafter to be fulfilled, the contract is called "an agreement to sell."

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Capacity to buy and sell.

2. Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property.

Provided that where necessaries are sold and delivered to an infant, or minor, or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefor.

"Necessaries" in this section means goods suitable to the condition in life of such infant, or minor, or other person, and to his actual requirements at the time of the sale and delivery.

*Formalities of the Contract.*

Contract of sale how made.

3 Subject to the provisions of this Ordinance and of any Ordinance in that behalf, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties.

Provided that nothing in this section shall affect the law relating to corporations.

No contract to be in force unless in writing and signed.

4 (1) A contract for the sale of any goods shall not be enforceable by action, unless the buyer shall accept part of the goods so sold and actually receive the same, or pay the price or a part thereof, or unless some note or memorandum in writing of the contract be made and signed by the party to be charged or his agent in that behalf.

(2) The provisions of this section apply to every such contract, notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured, or provided, or fit, or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery.

- (3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognizes a pre-existing contract of sale, whether there be an acceptance in performance of the contract or not.

*Subject-matter of Contract.*

Existing or  
future goods.

5 (1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods."

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

Goods which  
have perished.

6 Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void.

Goods perishing  
before sale, but  
after agreement  
to sell.

7 Where there is an agreement to sell specific goods, and subsequently the goods, without any fault on the part of the seller or buyer, perish before the risk passes to the buyer, the agreement is thereby avoided.

*The Price.*

Ascertainment  
of price.

8 (1) The price in a contract of sale may be fixed by the contract, or may be left to be fixed in manner thereby agreed, or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to  
sell at valuation.

9 (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party, and such third party cannot or does not make such valuation, the agreement is avoided; provided that if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault.

*Conditions and Warranties.*

Stipulations as  
to time.

10 (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

(2) In a contract of sale, "month" means *primâ facie* calendar month.

When condition  
to be treated as  
warranty.

11 (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to treat the breach of such condition as a breach of warranty, and not as a ground for treating the contract as repudiated.

(2) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated, or a warranty the breach of which may give rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

(3) Where a contract is not severable, and the buyer has accepted the goods, or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as a ground for rejecting the goods and treating the contract as repudiated, unless there be a term of the contract, expressed or implied, to that effect.

(4) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

Implied  
undertaking as  
to title, &c.

12 In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is—

- (1) An implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass.
- (2) An implied warranty that the buyer shall have and enjoy quiet possession of the goods.
- (3) An implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made.

Sale by  
description.

13 Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and if the sale be by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Implied  
conditions as to  
quality or fitness.

14 Subject to the provisions of this Ordinance and of any Ordinance in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:

- (1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not), there is an implied condition that the goods shall be reasonably fit for such purpose; provided that in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.
- (2) Where goods are bought by description from a seller who deals in goods of that description (whether he be the manufacturer or not), there is an implied condition that the goods shall be of merchantable quality; provided that if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.
- (3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
- (4) An express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith.

*Sale by Samples.*

15 (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(2) In the case of a contract for sale by sample—

- (a) There is an implied condition that the bulk shall correspond with the sample in quality.

- (b) There is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
- (c) There is an implied condition that the goods shall be free from any defect, rendering them unmerchantable, which could not be apparent on reasonable examination of the sample.

## PART II.

## EFFECTS OF THE CONTRACT.

*Transfer of Property as between Seller and Buyer.*

Goods must be ascertained.

16 Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Property passes when intended to pass.

17 (1) Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties, and the circumstances of the case.

Rules for ascertaining intention.

18 Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer :

*Rule 1.*—Where there is an unconditional contract for the sale of specific goods, in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment or the time of delivery or both be postponed.

*Rule 2.*—Where there is a contract for the sale of specific goods, and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing be done, and the buyer has notice thereof.

*Rule 3.*—Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test, or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing be done, and the buyer has notice thereof.

*Rule 4.*—When goods are delivered to the buyer on approval, or “on sale or return,” or other similar terms, the property therein passes to the buyer—

(a) When he signifies his approval or acceptance to the seller, or does any other act adopting the transaction.

(b) If he does not signify his approval or acceptance to the seller, but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

*Rule 5.*—(1) Where there is a contract for the sale of unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee or custodier (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

Reservation of right of disposal.

19 (1) Where there is a contract for the sale of specific goods, or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee or custodier for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price, and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he wrongfully returns the bill of lading the property in the goods does not pass to him.

Risk *prima facie* passes with property.

20 Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not.

Provided that where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regard any loss which might not have occurred but for such fault.

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee or custodier of the goods of the other party.

#### *Transfer of Title.*

Sale by person not the owner.

21 (1) Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

(2) Provided also that nothing in this Ordinance shall affect—

(a) The provisions of "The Factors Act," or any Imperial enactment, or any local Ordinance, enabling the apparent owner of goods to dispose of them as if he were the true owner thereof.

(b) The validity of any contract of sale under any statutory power of sale or upon the order of a court of competent jurisdiction.

Market overt.

22 Where goods are sold in market overt, according to the usage of the market, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of any defect or want of title on the part of the seller.

Sale under voidable title.

23 When the seller of goods has a voidable title thereto, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

Re-vesting of property in stolen goods on conviction of offender.

24 (1) Where goods have been stolen and the offender is prosecuted to conviction, the property in the goods so stolen re-vests in the person who was the owner of the goods, or his personal representative, notwithstanding any intermediate dealing with them, whether by sale in market overt or otherwise.

(2) Notwithstanding any enactment to the contrary, where goods have been obtained by fraud or other wrongful means not amounting to larceny, the property in such goods shall not re-vest in the person who was the owner of the goods, or his personal representative, by reason only of the conviction of the offender.

Seller or buyer in possession after sale.

25 (1) Where a person having sold goods continues or is in possession of the goods, or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge, or other disposition thereof, to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

(2) Where a person having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title, under any sale, pledge, or other disposition thereof, to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(3) In this section the term "mercantile agent" shall mean a mercantile agent having in the customary course of his business as such agent authority either to sell goods, or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods.

Effect of writs of execution.

26 A writ of execution against goods shall bind the property in the goods of the execution-debtor as from the time when the writ is delivered to the fiscal to be executed; and, for the better manifestation of such time, it shall be the duty of the fiscal, without fee, upon the receipt of any such writ, to endorse upon the back thereof the hour, day, month, and year when he received the same.

Provided that no such writ shall prejudice the title to such goods acquired by any person in good faith and for valuable consideration, unless such person had at the time when he acquired his title notice that such writ or any other writ, by virtue of which the goods of the execution-debtor might be seized or attached, had been delivered to and remained unexecuted in the hands of the fiscal.

(2) In this section the term "fiscal" includes any officer charged with the enforcement of a writ of execution.

### PART III.

#### *Performance of the Contract.*

Duties of seller and buyer.

27 It is the duty of the seller to deliver the goods, and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

Payment and delivery are concurrent conditions.

28 Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer must be ready and willing to pay the price in exchange for possession of the goods.



Rules as to  
delivery.

29 (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, express or implied, the place of delivery is the seller's place of business, if he have one, and if not, his residence. Provided that, if the contract be for the sale of specific goods, which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf; provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller.

Delivery of  
wrong quantity.

30 (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he must pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement, or course of dealing between the parties.

Instalment  
deliveries.

31 (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments, which are to be separately paid for, and the seller makes defective deliveries in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

Delivery to  
carrier.

32 (1) Where, in pursuance of a contract of sale, the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, is *prima facie* deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer, the seller must make such contract with the carrier on behalf of the buyer as may be reasonable, having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course

of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit, and, if the seller fails to do so, the goods shall be deemed to be at his risk during such sea transit.

Risk where goods are delivered at distant places.

33 Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer must, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

Buyer's right of examining the goods.

34 (1) Where goods are delivered to the buyer, which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

Acceptance.

35 The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him, and he does any act in relation to them which is inconsistent with the ownership of the seller, or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them.

Buyer not bound to return rejected goods.

36 Unless otherwise agreed, where goods are delivered to the buyer, and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

Liability of buyer for neglecting or refusing delivery of goods.

37 When the seller is ready and willing to deliver the goods, and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods. Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

#### PART IV.

##### *Rights of Unpaid Seller against the Goods.*

Unpaid seller defined.

38 (1) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Ordinance—

- (a) When the whole of the price has not been paid or tendered;
- (b) When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this part of this Ordinance the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

Unpaid seller's  
rights.

39 (1) Subject to the provisions of this Ordinance, and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law—

- (a) A lien on the goods or right to retain them for the price while he is in possession of them.
- (b) In case of the insolvency of the buyer, a right of stopping the goods *in transitu* after he has parted with the possession of them.
- (c) A right of re-sale as limited by this Ordinance.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage *in transitu* where the property has passed to the buyer.

*Unpaid Seller's lien.*

Seller's lien.

40 (1) Subject to the provisions of this Ordinance, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely :

- (a) Where the goods have been sold without any stipulation as to credit ;
- (b) Where the goods have been sold on credit, but the term of credit has expired ;
- (c) Where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee or custodier for the buyer.

Part delivery.

41 Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien or retention on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention.

Termination of  
lien.

42 (1) The unpaid seller of goods loses his lien or right of retention thereon—

- (a) When he delivers the goods to a carrier or other bailee or custodier for the purpose of transmission to the buyer without reserving the right of disposal of the goods.
- (b) When the buyer or his agent lawfully obtains possession of the goods.
- (c) By waiver thereof.

(2) The unpaid seller of goods, having a lien or right of retention thereon, does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods.

*Stoppage in transitu.*

Right of  
stoppage *in*  
*transitu.*

43 Subject to the provisions of this Ordinance, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu*; that is to say, he may resume possession of the goods as long as they are in course of transit, and may retain them until payment or tender of the price.

Duration of  
transit.

44 (1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier by land or water, or other bailee or custodier for the purpose of transmission to the buyer, until the buyer, or his agent in that behalf, takes delivery of them from such carrier or other bailee or custodier.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee or custodier acknowledges to the buyer or his agent, that he holds the goods on his behalf, and continues in possession of them as bailee or custodier for the buyer, or his agent, the transit is at an end, and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer, and the carrier or other bailee or custodier continues in possession of them, the transit is not deemed to be at an end even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee or custodier wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods.

How stoppage  
*in transitu* is  
affected.

45 (1) The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee or custodier in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice to be effectual must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage *in transitu* is given by the seller to the carrier, or other bailee or custodier in possession of the goods, he must re-deliver the goods to, or according to the directions of, the seller. The expenses of such redelivery must be borne by the seller.

#### *Re-sale by Buyer or Seller.*

Effect of  
sub-sale or  
pledge by buyer.

46 Subject to the provisions of this Ordinance, the unpaid seller's right or lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto.

Provided that where a document of title to goods has been lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if such last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated, and if such last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee.

Sale not  
generally  
rescinded by  
lien or stoppage  
*in transitu*.

47 (1) Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage *in transitu* re-sells the goods, the buyer acquires a good title thereto as against the original buyer.

(3) Where the goods are of a perishable nature, or where the unpaid seller gives notice to the buyer of his intention to re-sell, and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may re-sell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and on the buyer making default re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages.

## PART V.

## ACTIONS FOR BREACH OF THE CONTRACT.

*Remedies of the Seller.*

Action for price.

48 (1) Where, under a contract of sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods.

(2) Where, under a contract of sale, the price is payable on a day certain irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price, although the property in the goods has not passed, and the goods have not been appropriated to the contract.

Damages for non-acceptance

49 (1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

(2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept.

*Remedies of the Buyer.*

Damages for non-delivery.

50 (1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.

(2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the seller's breach of contract.

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver.

Specific performance.

51 In any action for breach of contract to deliver specific or ascertained goods the court may, if it thinks fit, on the application of the plaintiff, by its judgment or decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The judgment or decree may be unconditional, or upon such terms and conditions as to damages, payment of the price, and otherwise, as to the court may seem just. And the application by the plaintiff may be made at any time before judgment or decree.

Remedy for breach of warranty.

52 (1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

(a) Set up against the seller the breach of warranty in diminution or extinction of the price; or

(b) Maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting, in the ordinary course of events, from the breach of warranty.

(3) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage.

Interest and special damages.

53 Nothing in this Ordinance shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed.

#### PART VI.

##### *Supplementary.*

Exclusion of implied terms and conditions.

54 Where any right, duty, or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage be such as to bind both parties to the contract.

Reasonable time a question of fact.

55 Where by this Ordinance any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

\* Rights, &c., enforceable by action.

56 Where any right, duty, or liability is declared by this Ordinance, it may, unless otherwise by this Ordinance provided, be enforced by action.

Auction sales.

57 In the case of a sale by auction—

(1) Where goods are put up for sale by auction in lots, each lot is *prima facie* deemed to be the subject of a separate contract of sale.

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until such announcement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person. Any sale contravening this rule may be treated as fraudulent by the buyer.

(4) A sale by auction may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller.

Where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction.

Repeal.

58 Sub-section 3 of section 25 of the Ordinance No. 7 of 1840 is hereby repealed: Provided that such repeal shall not affect anything done or suffered, or any right, title, or interest acquired or accrued before the commencement of this Ordinance or any legal proceeding or remedy in respect of any such thing, right, title, or interest.

Savings.

59 (1) The rules in insolvency relating to contracts of sale shall continue to apply thereto, notwithstanding anything in this Ordinance contained.

(2) The rules of the English law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Ordinance, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress, or coercion, mistake, or other invalidating cause, shall apply to contracts for the sale of goods.

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge, or other security.

(4) Nothing in this Ordinance shall prejudice or affect the landlord's right of hypothec or lien for rent.

Interpretation of terms.

60 In this Ordinance, unless the context or subject-matter otherwise requires—

“Action” includes claim in reconvention.

“Buyer” means a person who buys or agrees to buy goods.

“Contract of sale” includes an agreement to sell as well as a sale.

“Delivery” means voluntary transfer of possession from one person to another.

“Document of title to goods” includes any bill of lading, dock warrant, warehouse-keeper's certificate, and warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document, to transfer or receive goods thereby represented.

“Factors Act” means the Act of the Imperial Parliament, 52 and 53, Vict. cap. 45.

“Fault” means wrongful act or default.

“Future goods” means goods to be manufactured or acquired by the seller after the making of the contract of sale.

“Goods” includes all movables except moneys. The term includes growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

“Lien” includes the right of detention.

“Plaintiff” includes the defendant claiming in reconvention.

“Property” means the general property in goods and not merely a special property.

“Quality of goods” includes their state or condition.

“Sale” includes a bargain and sale, as well as a sale and delivery.

“Seller” means a person who sells or agrees to sell goods.

“Specific goods” mean goods identified and agreed upon at the time a contract of sale is made.

“Warranty” means an agreement with reference to goods which are the subject of a contract of sale, but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages, but not a right to reject the goods and treat the contract as repudiated.

(2) A thing is deemed to be done “in good faith” within the meaning of this Ordinance when it is in fact done honestly, whether it be done negligently or not.

(3) A person is deemed to be insolvent within the meaning of this Ordinance, who either has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not, and, whether he has become an insolvent or not.

(4) Goods are in a “deliverable state” within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them.

Commencement.

61 This Ordinance shall come into operation on the day of 189 .

Short title.

62 This Ordinance may be cited as “The Sale of Goods Ordinance, 189 .”

By His Excellency the Governor's command,

Colonial Secretary's Office,  
Colombo, July 8, 1896.

W. T. TAYLOR,  
Acting Colonial Secretary.

## NOTICES IN TESTAMENTARY ACTIONS.

In the District Court of Colombo.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Estate of the late Colombabadalage Don Juan Naide, of No. 48, Galpotta street, in Colombo, deceased.

THIS matter coming on for disposal before Dodwell Francis Browne, Esq., District Judge of Colombo, on the 2nd day of July, 1896, in the presence of Edward Wilfred Perera, Proctor, on the part of the petitioner Alahandara Acharigey Dona Matcho Nona, of No. 36, Shoemakers' street in Colombo; and the affidavit of the said Alahandara Acharigey Dona Matcho Nona, dated the 24th day of June, 1896, having been read: It is ordered that the said Alahandara Acharigey Dona Matcho Nona be and she is hereby declared entitled to have letters of administration to the estate of Colombabadalage Don Juan Naide, deceased, issued to her, as the widow of the said deceased, unless the respondents—1, Colombabadalage Jane Nona; 2, Colombabadalage Anthony Naide; 3, Colombabadalage William Naide; 4, Colombabadalage Isabella Nona; 5, Colombabadalage Lewis Naide; and 6, Colombabadalage Porlentina Nona, all of No. 36, Shoemakers' street in Colombo—shall, on or before the 30th day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

Colombo, July 2, 1896.

D. F. BROWNE,  
District Judge.

In the District Court of Colombo.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Estate of Caitan Fernando Pulle, of Brassfounder street in Colombo, deceased.

THIS matter coming on for disposal before D. F. Browne, Esq., District Judge of Colombo, on the 21st day of May, 1896, in the presence of John Ohlmus, Proctor, on the part of the petitioner Lucia Silemberam, of No. 9, Brassfounder street in Colombo; and the affidavit of Francis Salis Pieris Thandavapulle, dated 11th May, 1896, having been read: It is ordered that the said Lucia Silemberam be and she is hereby declared entitled to have letters of administration to the estate of Caitan Fernando Pulle, deceased, issued to her, as widow of the said deceased, unless the respondents—1, Maria Fernando, wife of Vicent Corea; 2, Savaria Fernando; 3, Joseph Anthony Fernando Pulle; 4, Christopher Pasqual Fernando Pulle; 5, Francis Philip Fernando Pulle; 6, Maria Eugene Fernando; 7, Maria Rosaline Fernando; and 8, Emanuel Maria Joseph Fernando Pulle, all of No. 9, Brassfounder street in Colombo—shall, on or before the 23rd day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

D. F. BROWNE,  
District Judge.

The 21st day of May, 1896.

In the District Court of Colombo.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Estate of Palliakkara Cornelis Silva, late of 3rd Division, Maradana, in Colombo, deceased.

THIS matter coming on for disposal before D. F. Browne, Esq., District Judge of Colombo, on the

18th day of June, 1896, in the presence of D. C. Pedris, Proctor, on the part of the petitioner Sinharegey Charles Hamy, of 3rd Division, Maradana, in Colombo; and the affidavit of the said Sinharegey Charles Hamy, dated 10th June, 1896, having been read: It is ordered that the said Sinharegey Charles Hamy be and she is hereby declared entitled to have letters of administration to the estate of Palliakkara Cornelis Silva, deceased, issued to her as widow of the said deceased, unless the respondents—1, Palliakkara Siman de Silva; and 2, Victor, both of 3rd Division, Maradana in Colombo—shall, on or before the 23rd day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

D. F. BROWNE,  
District Judge.

The 18th day of June, 1896.

In the District Court of Kalutara.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Estate of the late Jayawardena Wickremeratne Mahavidanelage David Simon, deceased, of Paiyagala.

THIS matter coming on for disposal before S. Haughton, Esq., Acting District Judge of Kalutara, on the 9th day of December, 1895, in the presence of Mr. D. de Silva, Proctor, on the part of the petitioner Pinteruralalage Pavistenna Fernando; and the affidavit of the said petitioner, dated 6th December, 1895, having been read:

It is declared that the said Pinteruralalage Pavistenna Fernando is entitled to have letters of administration of the estate of the deceased Jayawardena Wickremeratna Mahavidanelage David Simon, issued to her, unless the respondents—(1) Jayawardena Wickremeratne Mahavidanelage Pedro Simon; (2) Regina Simon; (3) Rosina Simon; and (4) Awsenia Simon—shall, on or before the 24th day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

S. HAUGHTON,  
Acting District Judge.

The 18th day of June, 1896.

In the District Court of Kalutara.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Last Will and Testament of the late Sego Ismail Lebbe Asia Umma Natchia, deceased, of Totawatta in Panadura.

THIS matter coming on for disposal before S. Haughton, Esq., Acting District Judge of Kalutara, on the 16th day of June, 1896, in the presence of Mr. J. A. de Alwis, Proctor, on the part of the petitioner Colonda Markar Samsudeen Markar; and the affidavit of the said petitioner and of the subscribing witnesses, dated 16th June, 1896, having been read: It is ordered that the will of the late Sego Ismail Lebbe Asia Umma Natchia, deceased, dated 15th May, 1896, and now deposited in this court, be and the same is hereby declared proved. It



is further declared that the said Colonda Marikar Samsdeen Markar is entitled to have letters of administration, with the will annexed, to the estate of the deceased Segó Ismail Lebbe Asia Umma Natchia, issued to him, unless the respondents—1, Samsy Lebbe Markar Colonda Markar; 2, Muttumma Natchia and husband 3, Alla Pitche Arisi Markar; 4, Ponnimma Natchia and husband 5, Ismail Lebbe Markar Alim Saibo; 6, Hamidu Umma Natchia; 7, Usobo Lebbe Mohamadu Lebbe Markar; 8, Anifa Umma Natchia; 9, Sauwa Umma Natchia; 10, Pattumma Natchia; 11, Abdul Latibo, all of Totawatta in Panadure—shall, on or before the 29th day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

S. HAUGHTON,  
Acting District Judge.

The 16th day of June, 1896.

In the District Court of Negombo.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Intestate Estate of Jasentukankanamalage Pamanis de Silva, of Mahahunupitiya, deceased.

1, Jasentukankanamalage Charles de Silva, of Mahahunupitiya; 2, Hendrick Perera Jayawardena; 3, Hitheka Manuel de Silva, both of Third Division, Udayartoppu, in Negombo.....Petitioners.

And

1, Jasentukankanamalage Elina de Silva and husband; 2, Eliadura Amaris de Soyza, both of Mahahunupitiya; 3, Jasentukankanamalage Emelia de Silva; 4, Jasentukankanamalage Josephina de Silva; 5, Jasentukankanamalage Carlina de Silva, all of Third Division, Udayartoppu; 6, Jasentukankanamalage Rosalina de Silva and husband 7, Gunawardena Baron de Silva Wickramaratna, both of Mahahunupitiya; 8, Jasentukankanamalage Jane de Silva and husband 9, Frederick Perera Jayawardena, both of Third Division, Udayartoppu; 10, Jasentukankanamalage Maria de Silva; 11, Jasentukankanamalage Adelina de Silva, both of Mahahunupitiya.....Respondents.

THE matter of the petition of Jasentukankanamalage Charles de Silva, of Mahahunupitiya, Hendrick Perera Jayawardena and Hitheka Manuel de Silva, both of Third Division, Udayartoppu, in Negombo, praying for letters administration to the estate of the above-named deceased, Jasentukankanamalage Pamanis de Silva, of Mahahunupitiya, coming on for disposal before G. C. Roosmalecocq, Esq., District Judge, on the 26th day of June, 1896, in the presence of Mr. John Koertz, Proctor, on the part of the petitioners; and the affidavit of the petitioners, dated 11th day of June, 1896, having been read: It is ordered that the petitioners, as son and son-in-law respectively of the said intestate, are entitled to have letters of administration to the estate of the said intestate issued to them, unless the respondents or any other person shall, on or before the 23rd July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

G. C. ROOSMALECOQC,  
District Judge.

Dated 26th June, 1896.

In the District Court of Negombo.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Intestate Estate of Kurukulasuriya Kaitan Leitan, of Negombo, deceased.

Kurukulasuriya Maria Catherina Fernando, of Negombo.....Petitioner.

And

1, Ana Maria Leitan and husband 2, Kurukulasuriya Manuel Fernando; 3, John Sebastian Leitan; 4, Maria Regina Leitan and husband 5, Kurukulasuria Manuel Perera; 6, Rosaline Leitan; 7, Ellen Leitan; 8, Hugo Stephen Leitan; 9, Angelina Leitan; and 10, Maria Veronica Leitan, all of Negombo.....Respondents.

THE matter of the petition of Kurukulasuria Maria Catherina Fernando, of Negombo, praying for letters of administration to the estate of the above-named deceased, Kurukulasuria Kaitan Leitan, coming on for disposal before G. C. Roosmalecocq, Esq., District Judge, on the 26th day of June, 1896, in the presence of Mr. John Koertz, Proctor, on the part of the petitioner; and the affidavit of the petitioner, dated 16th June, 1896, having been read: It is ordered that the petitioner, as the lawful widow of the said intestate, is entitled to have letters of administration to the estate of the said intestate issued to her, unless the respondents or any other person shall, on or before the 23rd July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

G. C. ROOSMALECOQC,  
District Judge.

Dated 26th June, 1896.

In the District Court of Kandy.

*Order Nisi.*

Testamentary Jurisdiction. } In the Matter of the Estate and Effects of Herat Mudiyanseledara Punchirala, late of Dodanwela in the Medapalata of Yatinuwara, deceased.

Dissanayaka Mudiyanseledara Rammenika, of Dodanwela in the Medapalata of Yatinuwara.....Petitioner.

And

1, Herat Mudiyanseledara Tikiri Menika; 2, Herat Mudiyanseledara Kiri Banda, by their guardian *ad litem* Wattededara Punchirala.....Respondents.

THIS matter coming on for disposal before John Henricus de Saram, Esq., District Judge, on the 23rd day of June, 1896, in the presence of Mr. Siebel, Proctor, on the part of the petitioner, Dissanayaka Mudiyanseledara Rammenika; and the affidavit of the said petitioner, dated the 20th June, 1896, having been read:

It is ordered that the said Dissanayaka Mudiyanseledara Rammenika is entitled to have letters of administration to the estate of Herat Mudiyanseledara Punchirala, deceased, issued to her, as the widow of the said deceased, unless the respondents above-named, on or before the 31st day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

J. H. DE SARAM,  
District Judge.

June 23, 1896.

In the District Court of Anuradhapura.

Order Nisi.

Testamentary } In the Matter of the Estate of the late  
Jurisdiction. } Oona Ena Mohideen Abdul Cader,  
No. 41. } of Anuradhapura, deceased.  
Oona Ena Seyathu Ibraihim Saiboo, of  
Anuradhapura ..... Petitioner.  
Vs.  
Oona Ibraihim Saiboo of Anuradhapura ..... Respondent.

THIS matter of the petition of Oona Ena Seyathu Ibraihim Saibo, of Anuradhapura, praying for letters of administration to the estate of the above-named deceased, Oona Ena Mohideen Abdul Cader of Anuradhapura, coming on for disposal before W. H. B. Carbery,

Esq., Additional District Judge, on the 9th day of July, 1896, in the presence of Mr. S. Sampander, Proctor, on the part of the petitioner; and the affidavit of the petitioner, dated the 9th day of July, 1896, having been read: It is declared that the petitioner, as the brother of the said intestate, is entitled to have letters of administration to the estate of the said intestate issued to him, unless the respondent or any other person shall, on or before the 27th day of July, 1896, show sufficient cause to the satisfaction of this court to the contrary.

W. H. B. CARBERY,  
Additional District Judge.

Signed this 9th day of July, 1896.

## NOTICES OF FISCALS' SALES.

### Western Province.

In the District Court of Colombo.

John Louis Perera Samarasinhe Gunawardena ..... Plaintiff.  
No. 7,490/C. Vs.

Ratnayekege Don Martelis Appu and others... Defendants.

NOTICE is hereby given that on August 7, 1896, commencing at 11 o'clock in the forenoon, will be sold by public auction at the respective premises the following mortgaged property, viz.:-

1. The garden called Kosgahawattekele, situate at Urupana in the Dunagaha pattu of the Alutkuru korale, and bounded on the north by the properties appearing in plans 57,969, 67,091, and 63,845, and a footpath, on the north-east by the properties of Andris Appu and Nonnohami, on the east by the property appearing in plan 63,845 and by the properties of K. Andris Appu and Nonnohami, on the south by the properties belonging to Ptnchi Appu, Karnis Appu, and Louis Appu, and on the west by Crown land; containing in extent 27 acres more or less.

2. Half share of the land called Kiripanwedemullapillawe, situate at Palliyapitiya in do.; the entire land is bounded on the north by land retained by Government near the road, on the east by the property appearing in plan 55,341, on the south by the property appearing in plan 73,045, on the south-west by the property appearing in plan 73,045 and by land belonging to Imiage Kaluhami Atukorala, and on the west by the property belonging to Imiage Kaluhami Atukorala and by Government land; containing in extent 16 acres 2 roods and 24 perches more or less.

3. One-third part of the land called Narangaskatu Madugaha landa, situate at Kehelwella and Palliyapitiya in do.; bounded on the north by Crown land and by properties appearing in plans 64,712 and 64,709, on the east by a portion of this property, on the south by the land called Heinpanwilkumbura, and on the west by the limit of a portion of this garden of Mr. Hendrick Vanrooyan, Muhandiram; containing in extent 6 acres 2 roods and 26½ perches more or less.

And on August 8, 1896, commencing at 11 o'clock in the forenoon, will be sold by public auction at the premises the following mortgaged property, viz.:-

4. Seven-eighths of the land called Delgahapillewa, situate at Wattumulla in the Dasiya pattu of the Alutkuru korale, and bounded on the north-west by the property of Nilhami Appu and the property of Hechi Appu, on the east by the property of Hendappuhami, on the south-east by the property of Hendappuhami and the property of R. Hendrick Appu, on the south-west by the property of R. Hendrick Appu and Nilhami Appuhamy, and on the west by the property of Nilhami

Appuhami; containing in extent 2 roods and 35 perches more or less.

Amount to be levied Rs. 374-75, and interest on Rs. 121-75 at 9 per cent from September 13, 1895.

Deputy Fiscal's Office, FRED. G. HEPONSTALL,  
Negombo, July 13, 1896. Deputy Fiscal.

### Central Province.

In the District Court of Kandy.

Sawanna Ana Annamaley Chetty, of  
Gampola ..... Plaintiff.  
No. 10,195. Vs.  
Kader Bee, daughter of Mohamado Abdul  
Cader, of Gampola..... Defendant.

NOTICE is hereby given that on August 8, 1896, commencing at 12 o'clock noon, will be sold by public auction the following property of the defendant, viz.:-

1. The garden called Heennarangamullatennawatta of 28½ perches in extent, with the buildings bearing assessment No. 213, and everything standing thereon, situate by the side of the road leading to Ambegomuwa within the gravets of the town of Gampola; and bounded on the east by the great ditch, on the south by the high road, on the west by the land belonging to Kader Ossen Bai, and on the north by the land which belonged to Mr. Edema, and now the property of the Church of St. Joseph.

2. The garden called Pathianwalawatta of 2 roods and 14 perches in extent, together with all the buildings standing thereon, situate at Molligodapitiya in Gampola aforesaid; and bounded on the east and north by the high road, on the south by Keerapona-oya, and on the west by land belonging to Manannalage Ukkuwa and land appearing in plan No. 4,988.

Amount of writ, Rs. 1,189-90.

Fiscal's Office, C. S. VAUGHAN,  
Kandy, July 13, 1896. Fiscal.

In the District Court of Kandy.

Ana Runa Nawanna Nachiappa Chetty, of  
Gampola ..... Plaintiff.  
No. 10,187. Vs.  
Lena Palaniappa Chetty, of Gampola..... Defendant.

NOTICE is hereby given that on August 10, 1896, commencing at 12 o'clock noon, will be sold by public auction at the premises the following property of the defendant:-

1. The tea estate called Letchimiawatta, comprising the following tracts of lands, viz., Madalosseyyawatta, (2) Madalosseyyehena, (3) Madalosseyyawatta *alias* Kirigahayatahena, (4) Ambalamagawahena, (5) Kolaboraywatta, (6) Gedarawatta *alias* Etaheraliawatta, (7) Telmalaygedarakumburawatta, (8) Tumbawatta, (9) Tambaykotuwa, (10) Embakkagedarawatta, (11) Embakkagedarawatta, (12) Neketralagewatta *alias* Wedikkaragedarawatta, (13) Kolaborawatta *alias* Balaneykotuwagedarawatta, (14) Delgahamullawatta, (15) Nidanwalawatta, (16) Tambaywatta, (17) Wedikkaraingewatta *alias* Neketralagewatta, (18) Hapugaspiyahena, (19) Walawatta, (20) Henawalawatta, (21) Delgahakotuwawatta, (22) Hapugaspiyahena, (23) Kankanralagewatta, (24) Kankanralagegedarawatta, (25) Hapugaspiyawatta, (26) Hapugaspiyahena, (27) Hapugaspiyahena, and (28) Nidanwalawatta, and containing 15 acres and 26 perches in extent; bounded on the east by the high road leading to Kadugannawa, on the south by Polgollegedarawatta, Menikralesdeniya, Karandagahawatta, Upasekayewatta, Talagahawatta, Gedarawatta, and ela, on the west by Arunaselam Chetty's garden, Polgollegedarawatta, Delgahakotuwawatta and ela, on the north by the high road leading to Kadugannawa and Simaris Vedarala's land, together with the buildings, plantations, and everything standing thereon.

2. One hundred feet along the road, together with the tiled buildings and everything standing thereon, out of Kolaborawatta *alias* Batalawatta of 3 pelas in extent in the whole; and bounded on the east by the road leading to Ambegomuwa, on the south by the remaining portion of the same land, on the west by Siambelagahakotuwatta, and on the north by the fence of J. F. Rodrigo, situate at Keerapona in Gangapahala korale of Udalapala.

Amount of writ, Rs. 1,105 75.

Fiscal's Office,  
Kandy, July 13, 1896.

C. S. VAUGHAN,  
Fiscal.

### Southern Province.

In the District Court of Galle.

R. M. A. N. Raman Chetty, by his attorney  
R. M. A. N. Suppramanian Pulle of  
Kaluwella .....Plaintiff.

No. 4,314.

Vs.

1, S. A. Alles; 2, Petronia Alles, both of  
Galle .....Defendants.

NOTICE is hereby given that on Saturday, August 8, 1896, at 2.30 P.M. in the afternoon, will be sold by public auction at the spot the right, title, and interest of the said defendants in the following property, viz. :—

- (1) Four ladies' chairs.
- (2) Two blackened chairs.
- (3) One sideboard.
- (4) One almirah, and other movables; also
- (5) A defined portion of Porkegodellewatta *alias* Otiaparangiawatta and the house No. 165 standing thereon, situate at Kaluwella.

This writ is issued to levy a sum of Rs. 412.05, with interest on Rs. 352.65 at 9 per cent. per annum from June 9, 1896.

Fiscal's Office,  
Galle, July 15, 1896.

C. T. LEEBRUGGEN,  
Deputy Fiscal.

In the Court of Requests, Galle.

Bellanamestrige Carolishami, of Kumbalwella.....Plaintiff.  
No. 3,292. Vs.  
1, Kanda-addara Badalge Davith Hami; 2, Kanda-addara Badalge Tediashami; 3, Wadumestriige Guruhami, all of Kumbalwella ..... Defendants.

NOTICE is hereby given that on Saturday, August 8, 1896, at 9.30 A.M. in the forenoon, will be sold by public auction at the spot the right, title, and interest of the said defendants in the following property, to be sold at the risk of the purchaser, viz. :—

An undivided 1-14th part of the soil and trees of the defined lot No. 2 of the land called Walawwewatta and 15 cubits tiled house standing thereon belonging to the second defendant, situate at Kumbalwella.

This writ is issued to levy a sum of Rs. 113.35, of which Rs. 5 damages only against the second defendant.

Fiscal's Office,  
Galle, July 15, 1896.

C. T. LEEBRUGGEN,  
Deputy Fiscal.

### Province of Sabaragamuwa.

In the District Court of Kandy.

Mrs. Elizabeth Gidlow, of Dotaloya.....Plaintiff.  
No. 9,358. Vs.

1, F. H. Ambrose; and 2, Mrs. Jacob Ambrose, both of Kandy.....Defendants.

NOTICE is hereby given that on Saturday, August 15, 1896, at 12 o'clock noon, will be sold by public auction at the premises the right, title, and interest of the said first defendant in the following property, viz. :—

1. One equal undivided half part or share of and in all that coffee estate called Guinea land, situate at the village Mahantegama in the Four Korales, comprising the under-mentioned tract of land, to wit : (1) Markammalahena, (2) Madithhena, (3) Kiriwaulehena, (4) Narangahamulahena, (5) Penelehena, (6) Lindagawamulahena, (7) Kongahamullahena (8) Rukattanahena, (9) Pattambehena, (10) Kolutawanehena, (11) Galagodahena, (12) Mulgamadithhena, (13) Bawehehena, (14) Wadakahamadithhena and Telembuheriyehena; bounded on the north by the land belonging to villagers, on the east by the Roslin estate, on the south by the land of Appuwa and New Frankland estate, and on the west by Gadadesse-oya and the land of Appuwa and other villagers, containing in extent, inclusive of the 70 acres' lot after-mentioned, 293 acres 2 roods and 13 perches.

2. All that northern piece of land forming part of Hapugahamulahena and Paragahamulahena; bounded on the east by the Puwakwetiya of the Kovilkanda coffee estate, on the south by ela of Kekunehena and by the boundary of the moiety of the above land reserved by the late Henry de Saram, on the west by Muttetuwehena and Imbulgaha, being about 70 acres in extent.

Amount of writ Rs. 1,000, with interest on Rs. 750 at 9 per cent. per annum from June 1, 1895, till payment in full.

Deputy Fiscal's Office,  
Kegalla, July 15, 1896.

TIMOTHY F. ABAYAKOON,  
Deputy Fiscal.

## NOTICES OF INSOLVENCY.

## In the District Court of Colombo.

No. 1,833. In the matter of the insolvency of A. Suta Fernando, of Moratuwa.

WHEREAS the above-named A. Suta Fernando was on June 19, 1896, adjudged insolvent by the District Court of Colombo, and an order has been made by the said court placing the estate of the said insolvent under sequestration in the hands of the Fiscal: Notice thereof is hereby given to all concerned; and notice is also hereby given that the said court has appointed that two public sittings of the court will be held, to wit, on July 30, 1896, and August 13, 1896, for the said insolvent to surrender and conform, and for such other proceedings in the said matter as may then be competent under the Ordinance No. 7 of 1853, intituled "An Ordinance for the due collection, administration, and distribution of Insolvent Estates."

By order of court,

J. B. Misso,  
Secretary.

Colombo, July 1, 1896.

No. 1,834. In the matter of the insolvency of Kader Kanny Rawter Assen, of No. 171, Messenger street, Colombo.

WHEREAS the above-named Kader Kanny Rawter Assen was on July 9, 1896, adjudged insolvent by the District Court of Colombo, and an order has been made by the said court placing the estate of the said insolvent under sequestration in the hands of the Fiscal: Notice thereof is hereby given to all concerned; and notice is also hereby given that the said court has appointed that two public sittings of the court will be held, to wit, on August 13 and 27, 1896, for the said insolvent to surrender and conform, and for such other proceedings in the said matter as may then be competent under the Ordinance No. 7 of 1853, intituled "An Ordinance for the due collection, administration, and distribution of Insolvent Estates."

By order of court,

J. B. Misso,  
Secretary.

Colombo, July 13, 1896.