

T. DURAISINGAM
SOLICITOR
PROCTOR S.C. & NOTARY
31, WILSON ST. COLOMBO 12

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V

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OF CEYLON

1956

REVISED EDITION



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BY

THE HONOURABLE HEMA HENRY BASNAYAKE
CHIEF JUSTICE OF CEYLON

ASSISTED BY

E. R. K. D. M. HECTOR DEHERAGODA
ADVOCATE OF THE SUPREME COURT OF CEYLON, CROWN COUNSEL

AND

L. H. RAMACHANDRA PEIRIS
ADVOCATE OF THE SUPREME COURT OF CEYLON

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REFERENCE

THE following reference marks are used throughout this Edition (unless a contrary intention appears from the subject or context) to denote the Government Gazettes in which Proclamations effecting amendments to enactments under section 88 of the Ceylon (Constitution) Order in Council, 1946, and under section 8 of the Ceylon Independence Order in Council, 1947, have been published :—

REFERENCE MARK	GAZETTE DENOTED BY THE MARK
1	Gazette Extraordinary No. 9,773 dated 24th September, 1947.
2	Gazette Extraordinary No. 9,786 dated 13th October, 1947.
3	Gazette Extraordinary No. 9,828 dated 5th February, 1948.
4	Gazette Extraordinary No. 9,836 dated 25th February, 1948.
5	Gazette Extraordinary No. 9,848 dated 31st March, 1948.
6	Gazette Extraordinary No. 9,889 dated 28th July, 1948.

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CHAPTER 22

PREVENTION OF CRIMES

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE IDENTIFICATION AND SUPERVISION OF CRIMINALS AND THEIR MORE EFFECTIVE PUNISHMENT AND FOR THEIR PROLONGED DETENTION, AND ALSO TO PROVIDE FOR ENLARGING OF CONVICTS UPON LICENCES AND CONTROLLING THEM WHEN AT LARGE.

Ordinances

Nos. 2 of 1926,
27 of 1928,
24 of 1933,
20 of 1937,
69 of 1938,
55 of 1945.

[1st January, 1929.]

1. This Ordinance may be cited as the Prevention of Crimes Ordinance.

Short title.

IDENTIFICATION OF PERSONS PREVIOUSLY CONVICTED

2. (1) Whenever a person accused of a crime that is not triable summarily has been committed for trial, the Magistrate may at any time after such committal and before the trial cause the accused's finger prints to be taken in court and forwarded for identification to the Registrar. For this purpose the Magistrate may delay the transmitting of the record to the court of trial until the completion of such further proceedings.

Procedure where a person accused of a non-summary crime is suspected of having been previously convicted.

(2) The Registrar shall compare the finger prints so forwarded with his records of finger prints and shall issue to the Magistrate a certificate in the prescribed form, stating whether or not the finger prints forwarded are identical with the finger prints of a registered criminal and setting out the prescribed particulars of each conviction for a crime entered against such criminal.

[§ 2, 69 of 1938.]

(3) (a) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

[§ 2, 69 of 1938.]

(b) And—

(i) should the accused make a statement admitting all the convictions, the Magistrate shall record it in the manner provided by section 302 of the Criminal Procedure Code ;

(ii) should the accused not make a statement or make a statement denying all or any of the convictions, the Magistrate shall after recording the statement (if any) in the manner indicated above proceed to record in respect of such of the convictions as the accused does not admit the evidence prescribed in section 4.

(4) All proceedings recorded under this section and all documents tendered in connection therewith shall be forwarded to the Attorney-General or to such person as the Attorney-General may direct so as to reach him before the date fixed for the trial.

(5) Any statement or evidence recorded and any document tendered under this section may be put in and read as evidence at the trial at such time after conviction as it becomes material to inquire into the past record and character of the accused.

Procedure
where a
person is
convicted of
a crime after
summary
trial.

[§ 3, 69 of 1938.]
[§ 2, 55 of 1945.]

3. (1) Where, after summary trial of any person accused of a crime, a Magistrate finds him guilty thereof or without proceeding to conviction proposes to deal with him under section 325 (1) of the Criminal Procedure Code, the Magistrate shall, notwithstanding anything in section 190 of the Criminal Procedure Code cause the finger prints of such person to be taken and forwarded in the manner provided in subsection (1) of section 2, and the Registrar shall issue a certificate as required by subsection (2) of that section.

(2) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal, the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

(3) If the accused, on being called upon under subsection (2)—

(a) admits all the convictions set forth in the certificate, the Magistrate shall pass sentence on him according to law ;

(b) declines to make any reply, or denies all or any of the convictions set forth in the certificate, the Magistrate shall, before passing sentence on him, proceed to take evidence in proof of such of the convictions as the accused does not admit.

(4) The Magistrate may, in his discretion, remand the accused or admit him to bail until the certificate issued under subsection (1), or the evidence referred to in paragraph (b) of subsection (3), is available to the court.

(5) In this section, "summary trial" includes a trial by a Magistrate under section 166 of the Criminal Procedure Code or by a Magistrate, who is also a District Judge, under section 152 (3) of that Code.

4. The fact that any person has been previously convicted of a crime may be proved by the production of a certificate purporting to be signed by the chief clerk, secretary, or registrar of a court stating the substance and effect of the charge and conviction, and certifying—

Mode of
proving
previous
conviction.

(a) that such person was so previously convicted before the court ; or

(b) that on an occasion when such person was convicted by the court, of another offence, he admitted that he was so previously convicted, or was proved to have been so previously convicted ;

and by proof of the identity of the person against whom a previous conviction is sought to be proved, with the person named in the certificate.

ENHANCED SENTENCE ON CRIMINALS PREVIOUSLY CONVICTED

5. (1) When a person is convicted of a crime and a previous conviction of a crime is proved against him, the court of trial may, in addition to any other punishment which it may award to him, direct that he shall on the expiration of any term of imprisonment to which he is sentenced be subject to the supervision of the

Power of
court to
direct
supervision of
previously
convicted
criminal after
discharge
from jail.

police for a period not exceeding two years if the court of trial be a Magistrate's Court and four years if such court be the District Court or the Supreme Court :

Provided that the provisions of this section shall not apply in the case of any person sentenced to preventive detention under section 7 of this Ordinance.

Punishment
for neglect of
such duty.

(2) Every such person contravening any rule made under section 17 of this Ordinance dealing with persons subject to police supervision, shall in every case, unless he satisfies the court that he did his best to act in conformity with the said rule, be guilty of an offence under this Ordinance, and be liable on conviction to imprisonment of either description for any period not exceeding six months.

Sentence to
be passed on
criminals
previously
convicted.

[§ 4, 69 of 1938.]

6. If any person who has previously twice or oftener been convicted of any crime and has been sentenced on such conviction or convictions to undergo rigorous imprisonment exceeding in the aggregate one year is again convicted of a crime before the Supreme Court or before a District Court or Magistrate's Court, such court, in any case in which it would not otherwise have jurisdiction so to do, shall have jurisdiction, anything in the Criminal Procedure Code, the Penal Code, or any other enactment to the contrary notwithstanding, to sentence him to rigorous imprisonment for a period not exceeding two years, in addition to any punishment other than imprisonment to which he may be liable.

Preventive
detention.

7. (1) Where any person, charged before the Supreme Court or a District Court with a crime committed after the passing of this Ordinance, is convicted by the court and sentenced to a term of not less than one year's rigorous imprisonment, and such person subsequently admits that he is, or is found by the court on indictment to be, a person habitually addicted to crime, the court, if of opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that such person should be kept in detention for a lengthened period of years, may pass a further sentence ordering that, on the determination of the sentence of rigorous imprisonment, he be detained for such period not exceeding five

nor less than three years, as the court may determine, and such detention is herein referred to as "preventive detention".

(2) A person shall not be found to be a person habitually addicted to crime unless the court finds on evidence—

- (a) (i) that since attaining the age of sixteen years he has, whether before or after the passing of this Ordinance, been convicted of a crime at least three times previously to the conviction of the crime with which he is charged ; and
 - (ii) that he has on such previous convictions been sentenced to not less than three years rigorous imprisonment in the aggregate ; and
 - (iii) that he is leading persistently a dishonest or criminal life ; or
- (b) that he has on any of such previous convictions been found to be a person habitually addicted to crime and sentenced to preventive detention.

(3) Any statement, evidence, or document recorded or tendered under section 2, relating to any previous conviction of the person charged before the court, may be put in and used as evidence under subsection (2).

[§ 5, 69 of 1938.]

(4) No proceedings whatsoever, except service of notice under subsection (5), shall be taken under this section against any person for being a person habitually addicted to crime until he has been arraigned on an indictment charging him with a crime and unless on such arraignment he has pleaded guilty or has been found guilty by the court.

(5) In an indictment under this section against any person for being a person habitually addicted to crime, it shall be sufficient to state that such person is a person habitually addicted to crime and the court shall, unless he pleads guilty to being a person habitually addicted to crime, inquire whether he is a person habitually addicted to crime :

Provided that no person shall be arraigned on an indictment for being a person habitually addicted to crime unless not less than seven days' notice thereof has been served on him. Such notice shall specify the

[§ 5, 69 of 1938.]

previous convictions and other grounds upon which it is intended to found the charge, and may be served on such person by the Magistrate before forwarding the proceedings under section 2 (4).

(6) A court in deciding whether an offender is a person habitually addicted to crime or not shall pay due regard to the conduct of the accused since his last release from jail, and may admit evidence as to the character and repute of the accused and the accused may tender similar evidence. For these purposes the court may postpone the case from time to time, and remand the accused or admit him to bail.

(7) A person sentenced to preventive detention by a District Court may appeal to the Supreme Court against such sentence, and such appeal shall be subject to the conditions specified in the Criminal Procedure Code.

Governor-
General may
commute
rigorous
imprisonment
to a sentence
of preventive
detention.

8. Where a person has been sentenced, whether before or after the passing of this Ordinance, to rigorous imprisonment for a term of five years or upwards, and he appears to have been at the date of such sentence a person liable to a sentence of preventive detention under section 7 of this Ordinance, the Governor-General³ may, if he thinks fit, at any time after three years of the term of rigorous imprisonment have expired, commute the whole or part of the residue of the sentence to a sentence of preventive detention, so, however, that the total term of sentence when so commuted shall not exceed the term of rigorous imprisonment originally awarded.

Preventive
detention to
commence
after impri-
sonment.

9. Every sentence of preventive detention shall take effect immediately on the determination of the period of imprisonment to which the convict has also been sentenced, whether such determination take place by effluxion of time or by order under the last preceding section, or by a remission of any part of the sentence under the prison rules or otherwise.

Minister may
set apart
prison for
preventive
detention.

10. Persons undergoing preventive detention shall be confined in any prison or part of a prison which the Minister¹ may set apart for the purpose, and shall be subject to the law for the time being in force with respect to rigorous imprisonment as if they were

undergoing rigorous imprisonment, subject to such modifications as may be prescribed by rules framed under section 17 of this Ordinance.

RELEASE ON LICENCE

11. It shall be lawful for the Minister,¹ by an Order in writing, to grant to any prisoner undergoing sentence of imprisonment or preventive detention in any prison in Ceylon a licence, in the prescribed form, to be at large in Ceylon or in any part thereof during such portion of his period of imprisonment or preventive detention, and upon such conditions, as to the Minister¹ shall seem fit. The Minister¹ may, if he thinks fit, revoke or alter such licence or vary the conditions thereof. Every such licence may be granted and every revocation or alteration of a licence or variation of the conditions thereof may be made by an order in writing under the hand of the prescribed officer.

Grant of
licences to
prisoners to
be at large

12. Any person who commits a crime while he is the holder of a licence granted as aforesaid shall, on conviction of that crime, undergo—

Consequences
of conviction
of crime
committed
while at large
on licence.

- (a) any term of imprisonment to which he may be sentenced for that crime ; and
- (b) a term of imprisonment equal to that portion, if any, of his term of imprisonment which remained unexpired at the time of the grant of the licence ;

and shall thereafter, notwithstanding anything to the contrary in section 7 or section 9, further undergo—

- (c) a term of preventive detention equal to that portion, if any, of his term of preventive detention which remained unexpired at the time of the grant of the licence ; and
- (d) any term of preventive detention to which he may be sentenced in any proceedings taken under section 7 consequent on his conviction of that crime ;

and the licence, if in force at the date of his conviction of that crime, shall be deemed to be forfeited by virtue of such conviction.

Non-
production
of licence or
breach of any
of the condi-
tions of
licence
declared an
offence.

13. If any holder of a licence granted as aforesaid—

(a) fails to produce his licence when required to do so by any Judge or Magistrate before whom he may be brought charged with any offence, or by the police officer in whose custody he may be, and fails to make any reasonable excuse for not producing the same ; or

(b) breaks any of the other conditions of his licence that are not of themselves punishable either upon indictment or upon summary conviction,

he shall be guilty of an offence, and be liable on conviction to imprisonment, either rigorous or simple, for any period not exceeding six months.

Arrest of
licence
holder on
suspicion.

14. Any peace officer may without warrant take into custody any holder of a licence granted as aforesaid whom he may reasonably suspect of having committed any offence or having broken any of the conditions of his licence, and may detain him in custody until he can be taken before a competent Magistrate and dealt with according to law.

Duty of
Magistrate
to report
conviction to
Minister and
Order of
Minister on
such report.

15. (1) Where any person is convicted of an offence punishable under section 13, the Magistrate convicting that person shall report such conviction to the Minister¹ and, in any such case, it shall be lawful for the Minister¹ by Order to direct that such person shall be dealt with as if no such licence had been granted to him, and upon the making of such Order the licence granted to such person shall, if in force, be deemed to be revoked by virtue of such Order.

(2) Where the Minister¹ has made an Order under subsection (1), the person to whom that Order applies may, if at large, be arrested without a warrant by any peace officer and be committed by any Magistrate to undergo any term of imprisonment or preventive detention to which he may be liable under section 16 by reason of such Order.

(3) Where a Magistrate commits a person under subsection (2) to undergo any term of imprisonment or

preventive detention, he shall forthwith report such committal to the Magistrate by whom such person was convicted of the offence under section 13 in consequence of which the Order under subsection (1) was made.

16. Where the Minister¹ has made an Order under section 15 (1), the person to whom that Order applies shall, after undergoing any term of imprisonment to which he may be sentenced for the offence under section 13 in consequence of which that Order was made, further undergo—

Consequences
of Order
made by
Minister
under
section 15.

- (a) a term of imprisonment equal to that portion, if any, of his term of imprisonment which remained unexpired at the time he was granted a licence to be at large ; and
- (b) a term of preventive detention equal to that portion, if any, of his term of preventive detention which remained unexpired at the time of the grant of that licence.

17. (1) The Minister¹ may make rules—

Rules to be
made by the
Minister.

- (a) for the registration of criminals and for the appointment of officers by the Inspector-General of Police to superintend the carrying out of such registration, the photographing of criminals, and the taking of such other measures as may be suitable to ensure the identification of criminals ;
- (b) prescribing the method of identifying criminals so registered ;
- (c) prescribing the measures to be taken to keep criminals under observation by peace officers and police officers ;
- (d) regulating the supervision of persons subject to police supervision under section 5 of this Ordinance ;

- (e) regulating the treatment of persons undergoing sentences of preventive detention, the conditions of their discharge, and their supervision by specially authorized supervisors after their discharge ;
 - (f) prescribing the conditions on which licences may be granted to prisoners to be at large under this Ordinance, the forms to be used for such licences and the manner in which such licences shall be authenticated.
- (2) All rules so made, repealed, or amended—
- (i) shall be published in the Gazette and laid for a period of six sitting days before the Senate and the House of Representatives,¹ and
 - (ii) shall come into force on the day on which they are approved by a resolution of the Senate and the House of Representatives,¹ or on such later day as may be specified in such rule or resolution :

Provided that where such resolutions are passed on different days such rules shall come into force on the later of such days unless a different date is specified in those resolutions.¹

Interpretation.

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

- “crime” shall mean a breach of any one of the sections of the Penal Code included in the Schedule ;
- “criminal” shall mean a person who has been convicted of a crime ;
- “peace officer” and “police officer” shall have the same meaning as in the Criminal Procedure Code ;
- “registered criminal” shall mean a person registered under this Ordinance as a criminal ;
- “Registrar” shall mean the Registrar of the Finger Prints Identification Office.

SCHEDULE

[Section 18.]

<i>Section of Penal Code</i>	<i>Nature of Offence</i>
101, 113A, and 113B ..	Abetting and conspiracy to commit breaches of any of the offences specified in this Schedule.
From 226 to 256 (inclusive)	Offences relating to coin and Government stamps.
296, 297, 300, 301 ..	Culpable homicide, &c.
From 315 to 324 (inclusive)	Voluntarily causing hurt by dangerous weapons, &c.
From 367 to 371 (inclusive)	Theft, theft of cattle, &c.
From 373 to 378 (inclusive)	Extortion, &c.
From 380 to 385 (inclusive)	Robbery, &c.
387 ..	Criminal misappropriation.
From 389 to 392 (inclusive), but excluding 392A and 392B ..	Criminal breach of trust.
From 394 to 397 (inclusive)	Dishonestly receiving stolen property.
From 400 to 403 (inclusive)	Cheating.
From 418 to 426 (inclusive)	Mischief, &c.
From 435 to 451 (inclusive)	House-trespass, house-breaking, &c.
From 452 to 466 (inclusive)	Forgery, &c.
From 478A to 478D (inclusive) ..	Offences relating to currency notes and bank notes.
490 ..	Attempting the breach of any of the sections above specified in this Schedule.

CHAPTER 23

CHILDREN AND YOUNG PERSONS

Ordinances

Nos. 48 of 1939,
13 of 1944,
42 of 1944,
12 of 1945.

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF JUVENILE COURTS, FOR THE SUPERVISION OF JUVENILE OFFENDERS, FOR THE PROTECTION OF CHILDREN AND YOUNG PERSONS, AND FOR OTHER CONNECTED PURPOSES.

[Parts I, II, and III—28th April, 1952.]

[Parts IV and V (except section 76) not in operation.]

[Part VI and section 76—31st December, 1952.]

Short title and date of operation.

1. This Ordinance may be cited as the Children and Young Persons Ordinance, and shall come into operation on such date as the Governor-General⁴ may appoint by Proclamation published in the Gazette :

[§ 2, 13 of 1944.]

Provided that different dates may be appointed for the coming into operation of different provisions of this Ordinance.

PART I

ESTABLISHMENT OF JUVENILE COURTS, JURISDICTION OF AND PROCEDURE IN JUVENILE COURTS, &c.

JUVENILE COURTS

Juvenile Courts.

2. A court of summary jurisdiction sitting for the purpose of hearing any charge against a child or young person or for the purpose of exercising any other jurisdiction conferred on a Juvenile Court by or under this Ordinance or any other written law shall be known as a Juvenile Court.

Children's Magistrates.

[§ 3, 13 of 1944.]

3. (1) There may be appointed, for each Magistrate's Court, a person³ or persons, by name or by office, to be or to act as Magistrate or Magistrates of that court when that court is sitting as a Juvenile Court.

(2) There may be appointed, for each Municipal Court, a person³ or persons, by name or by office, to be or to act as Magistrate or Magistrates of that court when that court is sitting as a Juvenile Court.

(3) Where the number of persons to be appointed for any court under subsection (1) or subsection (2) is less than three, the person or each of the persons to be so appointed must be an advocate or a proctor or a person who holds or has held judicial office; and in every other case, one at least of the persons to be so appointed for any court must be an advocate or a proctor or a person who holds or has held judicial office.

(4) A woman shall not be disqualified, by reason only of her sex, from being appointed as a Magistrate under subsection (1) or subsection (2).

(5) Every person appointed under subsection (1) or subsection (2) shall be known as a Children's Magistrate of the judicial division or municipal town for which he is appointed, and is hereinafter referred to as "a Children's Magistrate".

(6) Where the number of Children's Magistrates appointed for any Magistrate's Court or Municipal Court is less than three, the jurisdiction conferred by this Ordinance or by any other written law on such court, sitting as a Juvenile Court, shall be exercised by the Magistrate or either of the Magistrates so appointed.

(7) Where the number of Children's Magistrates appointed for any Magistrate's Court or Municipal Court is three or more, the jurisdiction conferred by this Ordinance or by any other written law on such court, sitting as a Juvenile Court, may be exercised either—

- (a) by any one of such Magistrates sitting alone, if he is an advocate or a proctor or holds or has held judicial office; or
- (b) by any three of such Magistrates sitting together including in every such case one who is an advocate or a proctor or holds or has held judicial office.

(8) In any case where any three Children's Magistrates sit together as provided in subsection (7), such Magistrates shall elect one of their number to be the chairman of the court for the sitting, and—

- (a) the proceedings of the court, and the evidence given before the court, shall be recorded by the chairman ;
- (b) the verdict of the court, and every order made by the court, shall be signed by the chairman and by at least one of the other Magistrates ;
- (c) the decision of the majority of such Magistrates shall, in the event of any difference of opinion between such Magistrates, be the decision of the court.

(9) In this section, "judicial office" does not include the office of President of a Rural Court or the office of Children's Magistrate.

Jurisdiction
of Juvenile
Courts.

4. (1) Notwithstanding anything in any written law to the contrary but subject as hereinafter provided, a Magistrate's Court sitting as a Juvenile Court shall have jurisdiction to hear and determine any case in which a child or young person is charged with any offence other than a scheduled offence and any question of law or fact arising in such case.

(2) A Municipal Court sitting as a Juvenile Court shall have no jurisdiction to hear and determine any case in which a child or young person is charged with having committed an offence other than an offence which, in the case of an adult, is triable by such Municipal Court under the provisions of the Municipal Councils Ordinance or of any other written law.

(3) A Rural Court sitting as a Juvenile Court shall have no jurisdiction to hear and determine any case in which a child or young person is charged with having committed any offence other than an offence, which, in the case of an adult, is triable by such court under the provisions of the Rural Courts Ordinance or of any other written law.

5. (1) Subject as hereinafter provided, no charge against a child or young person and no application whereof the hearing is by this Ordinance or by any other written law assigned to Juvenile Courts, shall be heard by a court of summary jurisdiction which is not a Juvenile Court :

Assignment of certain matters to Juvenile Courts.

Provided that—

- (a) no case in which a child or young person is charged with having committed a scheduled offence shall be heard and determined by a Juvenile Court ; and
- (b) a charge made jointly against a child or young person and a person who has attained the age of sixteen years shall be heard by a court of summary jurisdiction other than a Juvenile Court ; and
- (c) where in any case a child or young person is charged with an offence, the charge may be heard by a court of summary jurisdiction which is not a Juvenile Court, if a person who has attained the age of sixteen years is in the same case charged with the abetment of that offence ; and
- (d) where, in the course of the proceedings before any court of summary jurisdiction other than a Juvenile Court, it appears that the person to whom the proceedings relate is a child or young person, nothing in this section shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.

6. No direction, whether contained in this Ordinance or in any other written law, that a charge shall be brought before a Juvenile Court, shall be construed as restricting the powers of any court of summary jurisdiction which is not a Juvenile Court to entertain an application for bail or for a remand and to hear such evidence as may be necessary for that purpose.

Order for bail by courts not sitting as Juvenile Courts.

7. (1) A Juvenile Court shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on such court by or under this Ordinance or any other written law.

Sittings of a Juvenile Court.

(2) A Juvenile Court shall sit in a different building or room from that in which sittings of courts other than Juvenile Courts are held :

Provided, however, that this subsection shall not apply in the case of a Rural Court sitting as a Juvenile Court, if a different building or room is not available for the sittings of such Juvenile Court.

(3) No person shall be present at any sitting of a Juvenile Court except—

- (a) members and officers of the court ;
- (b) parties to the case before the court, their advocates, proctors and witnesses and other persons directly concerned in that case ; and
- (c) such other persons as the court may specially authorize to be present.

Power of Juvenile Court to proceed with hearing where accused person is not a child or young person.

8. (1) A Juvenile Court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child or young person may, if it thinks fit so to do, proceed with the hearing and determination of the charge or application, notwithstanding that it is discovered that the person in question is not a child or young person.

(2) Where the court before which any person is bound by his recognizance under Chapter XXVI of the Criminal Procedure Code or under the provisions of the Rural Courts Ordinance or any rules made thereunder to appear is a Juvenile Court, the attainment by him of the age of sixteen years shall not deprive that court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his recognizance, or of jurisdiction to vary or discharge the recognizance.

Procedure in Juvenile Courts.

9. (1) Where a child or young person is brought before a Juvenile Court for any offence which that court has jurisdiction to hear and determine, it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(2) Where a child is brought before a Juvenile Court for any offence which that court has jurisdiction to hear and determine, the case shall be tried and determined in that court.

(3) Where a young person is brought before a Municipal Court or a Rural Court sitting as a Juvenile Court, for any offence which that Juvenile Court has jurisdiction to hear and determine, the case shall be tried and determined by such Juvenile Court.

(4) Where a young person is brought before a Magistrate's Court sitting as a Juvenile Court for any offence which that Juvenile Court has jurisdiction to hear and determine, the following provisions shall apply :—

(a) Where the offence alleged against the young person is an offence other than an indictable offence, the case shall be tried and determined by the Juvenile Court ;

(b) Where the offence alleged against the young person is an indictable offence—

(i) the court shall, if it is of opinion that it is expedient that the case should be summarily disposed of, put to the young person the following or a similar question, telling him that he may consult his parent or guardian or a friend before replying :—

“Do you wish to be tried by this court or by a higher court ?”,

and the court shall explain to the young person and to his parent or guardian, if present, the meaning of being so tried ; and if the young person on being so questioned states that he wishes to be tried by the Juvenile Court, the case shall be tried and determined by that court :

Provided that if the court becomes satisfied at any time during the hearing that the case should be tried by a higher court, the Juvenile Court shall discontinue the proceedings against that

young person and direct that the charge should be preferred in a Magistrate's Court of competent jurisdiction ;

- (ii) if the court is of opinion that it is not expedient that the case should be summarily disposed of, or if the young person in answer to the question put to him under paragraph (i) states that he wishes to be tried by a higher court, the Juvenile Court shall discontinue the proceedings against that young person and direct that the charge should be preferred in a Magistrate's Court of competent jurisdiction.

(5) In every case which is tried by a Juvenile Court in accordance with the provisions of this section the court shall adopt the following procedure :—

- (a) The court shall ask the child or young person whether he admits that he committed the offence ;
- (b) If the child or young person does not admit that he committed the offence, the court shall then hear the evidence of the witnesses in support of the charge. At the close of the evidence-in-chief of each such witness, the court shall ask the child or young person, or if it thinks fit, the parent or guardian of the child or young person, whether he wishes to put any question to the witnesses ; and the child or young person, or the parent or guardian may, if he so desires, put any questions accordingly. The child or young person may, instead of asking any questions, make a statement, if he so desires ;
- (c) It shall be the duty of the court to put to every witness who gives evidence in support of the charge such questions as appear to the court to be necessary ;
- (d) The court may put to the child or young person such questions as may be necessary to explain anything in any statement made by the child or young person ;

- (e) If it appears to the court that a prima facie case is made out, the evidence of any witness for the defence shall be taken and the child or young person shall be allowed to give evidence or to make any statement ;
- (f) If the child or young person admits that he committed the offence or if the court is satisfied on the evidence adduced that the child or young person committed the offence, he shall be asked if he desires to say anything in extenuation of the offence or in mitigation of punishment or otherwise.

10. (1) Where a Juvenile Court is satisfied that a child or young person is guilty of an offence in respect of which that court has jurisdiction under this Ordinance, the court shall, for the purpose of deciding how the child or young person should be dealt with, take into consideration any information which may be available regarding the antecedents and circumstances of the child or young person, including any information supplied by a probation officer under section 17, and may summon and examine any probation officer or other person and may also put to the child or young person any question arising out of such information or examination.

Procedure on finding of guilty in Juvenile Courts.

(2) For the purpose of enabling any information regarding the antecedents and circumstances of the child or young person to be obtained, the court may, if it is a Magistrate's Court sitting as a Juvenile Court, remand the child or young person for a period not exceeding twenty-one days to a remand home or to the custody of a fit person ; and when any child or young person has been so remanded the court may—

- (a) in his absence extend the period for which he is remanded, so, however, that he appears before the court at least once in every twenty-one days ; and
- (b) when the required information has been obtained, deal with him finally.

Restriction on reports of proceedings in Juvenile Courts.

11. No report of any proceedings before a Juvenile Court shall be published in any newspaper, magazine, or other journal :

Provided that nothing in this section shall affect the bona fide publication of any report of any such proceedings in any scientific journal or other publication devoted exclusively to the protection or welfare of children or young persons ;

Provided further that no report in any such journal or publication shall reveal the name, address, or school, or any other particulars calculated to lead to the identification of, any child or young person concerned in such proceedings.

Rules of court.

12. (1) The Judges of the Supreme Court, or any five of them, of whom the Chief Justice shall be one, may frame rules of court for regulating the procedure and practice in Magistrates' Courts and Municipal Courts sitting as Juvenile Courts ; and the provisions of the Criminal Procedure Code shall apply to the procedure and practice in such Juvenile Courts, in so far as those provisions are not inconsistent with the provisions of this Ordinance or of any rules framed under this subsection.

(2) The matters for which rules may be framed under subsection (1) shall be deemed to be added to the list of matters for which rules may be framed, constituted, and established under section 49 of the Courts Ordinance ; and the provisions of that section of that Ordinance shall apply accordingly to any rules of court framed under subsection (1) for the purposes of this Ordinance.

(3) The Minister of Justice¹ may frame rules for regulating the procedure and practice in Rural Courts sitting as Juvenile Courts ; and the provisions of the Rural Courts Ordinance and of any rules made thereunder relating to the procedure and practice in criminal cases before such courts shall, in so far as those provisions are not inconsistent with the provisions of this Ordinance or of any rules made under this subsection, apply in cases heard by a Rural Court sitting as a Juvenile Court.

(4) The matters for which rules may be framed under subsection (3) shall be deemed to be added to the matters for or in respect of which rules may be made under the Rural Courts Ordinance relating to the procedure and practice in criminal cases before Rural Courts ; and the provisions of that Ordinance shall apply accordingly to any rules made under subsection (3) for the purposes of this Ordinance.

PART II

SPECIAL PROVISIONS APPLICABLE TO ALL COURTS IN RELATION TO CHILDREN AND YOUNG PERSONS

PRELIMINARY PROCEEDINGS

13. Arrangements shall be made for preventing a child or young person while detained in a police station or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged, and for ensuring that a girl (being a child or young person) shall while so detained, being conveyed or waiting, be under the care of a woman.

Separation
of children
and young
offenders
from adults
in police
stations,
courts, &c.

14. (1) Where a person apparently under the age of sixteen years is arrested, with or without warrant, and cannot be brought forthwith before the competent court of summary jurisdiction, the person making the arrest shall take such person to the nearest police station and the officer in charge of that station shall inquire into the case and shall release such person if a recognizance is entered into by him or his parent or guardian (with or without sureties) for such an amount as will, in the opinion of the officer, secure his attendance upon the hearing of the charge :

Bail or
detention of
children and
young persons
arrested.

Provided, however, that where the competent court of summary jurisdiction is a Magistrate's Court, the officer in charge of the station may detain and deal with him in the manner provided in subsection (2) if—

(a) the charge is in respect of a scheduled offence ;

- (b) it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute ; or
- (c) the officer has reason to believe that the release of such person would defeat the ends of justice.

(2) Where a person apparently under the age of sixteen years having been arrested is not so released as provided in subsection (1), the officer in charge of the station shall cause him to be detained in a remand home or in the residence of any person nominated by the Minister¹ under subsection (3) until he can be brought before the competent court of summary jurisdiction, unless the officer certifies—

- (a) that it is impracticable to do so ; or
- (b) that he is of so unruly a character that he cannot safely be so detained ; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him,

and the certificate shall be produced to the court before which he is brought.

(3) The Minister¹ may by notification in the Gazette nominate for any area any number of responsible persons in whose residences any person apparently under the age of sixteen years may be detained for the purposes of subsection (2).

Remand or committal to custody in remand homes or in charge of fit and proper persons.

15. (1) Any court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a remand home, or in the residence of a fit and proper person named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law :

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be so committed or that he is of so depraved a character that he is not a fit person to be so detained.

(2) A commitment under this section may be varied, or, in the case of a young person who proves to be of so unruly a character that he cannot safely be detained in such custody, or to be of so depraved a character that he is not a fit person to be so detained, revoked, by the court which made the order, or if application cannot conveniently be made to that court, by the nearest Magistrate's Court having jurisdiction in the place where the court which made the order sat, and if it is revoked, the young person may be committed to prison.

16. (1) Where a child or young person is charged with any offence or is for any other reason brought before a court, his parent or guardian may in any case, and shall if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings unless the court is satisfied that it would be unreasonable to require his attendance.

Attendance at court of parent of child or young person charged with an offence. &c.

(2) Where a child or young person is arrested or taken to a place of safety the person by whom he is arrested or the officer in charge of the police station to which he is brought or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the child or young person if he can be found, to be warned to attend at the court before which the child or young person will appear.

(3) A court may issue a summons requiring the attendance of a parent or guardian at such time and place as may be specified therein ; and any summons so issued shall—

- (a) when issued by a Magistrate's Court or Municipal Court sitting as a Juvenile Court, be deemed to be a summons which the court is empowered to issue under the Criminal Procedure Code and the provisions of Chapter V of that Code shall apply accordingly ;
- (b) when issued by a Rural Court sitting as a Juvenile Court, be deemed to be a summons which the court is empowered to issue under the Rural Courts Ordinance and the provisions

of that Ordinance and of any rules made thereunder, relating to such a summons, shall apply accordingly.

(4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person :

Provided that if that person is not the father, the attendance of the father may also be required.

(5) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

Notice to probation officers of charges against and applications relating to children and young persons.

17. (1) Where a child or young person is to be brought before a Magistrate's Court or before a Juvenile Court in respect of an offence alleged to have been committed by him, or as being in need of care or protection, the officer in charge of the police station to which the child or young person is taken shall forthwith notify the day and hour when and the nature of the charge or other grounds on which, the child or young person is to be brought before the court, to the probation officer, or one of the probation officers, for the area within the jurisdiction of such court.

(2) A probation officer who has received a notification under the last foregoing subsection shall make such investigations and render available to the court such information as to the home surroundings, school record, health, and character of the child or young person as appear to him to be likely to assist the court.

GENERAL PROVISIONS AS TO PROCEEDINGS IN COURT

Prohibition against children being present in court during the trial of other persons.

18. No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purpose of justice ; and any child present in court when under this section he is not to be permitted to be so shall be ordered to be removed.

19. (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their counsel or proctors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness.

Power to clear court while child or young person is giving evidence in certain cases.

(2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings *in camera*.

20. (1) In relation to any proceedings in any court, other than a Juvenile Court, which arise out of any offence against, or any conduct contrary to, decency or morality—

Prohibition of publication of certain matter in newspapers.

(a) no report of the proceedings in any newspaper, magazine, or other journal shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein ; and

(b) no picture shall be published in any newspaper, magazine or other journal, as being or including a picture of any child or young person so concerned in the proceedings as aforesaid.

(2) Any person who publishes any matter in contravention of subsection (1) 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.

PRINCIPLES TO BE OBSERVED BY ALL COURTS IN DEALING WITH CHILDREN AND YOUNG PERSONS

21. Every court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person

General considerations.

and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.

YOUNG OFFENDERS

Removal of disqualifications attaching to any offence.

22. No conviction or finding of guilty of a child or young person shall be regarded as a conviction of an offence for the purposes of any disqualification attaching to such conviction.

Restrictions on punishment of children and young persons.

23. (1) A child shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine.

(2) A young person shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine, unless the court certifies that he is of so unruly a character that he cannot be detained in a remand home or certified school or that he is of so depraved a character that he is not a fit person to be so detained.

(3) The provisions of subsection (2) shall be in addition to and not in substitution of any other provisions of any written law limiting or restricting the power of a court to order a person to be imprisoned in default of a fine, and such other provisions shall apply in the case of a young person in so far as they are not inconsistent with the provisions of subsection (2).

Punishment of certain grave crimes.

24. (1) Where in lieu of sentence of death, a sentence of detention during the Governor-General's³ pleasure has, under section 53 of the Penal Code, been passed by any court in respect of a person who, in the opinion of the court is under the age of sixteen years, the court may order that person to be detained in a remand home until the pleasure of the Governor-General³ is made known.

(2) Where a child or young person is convicted on indictment of any scheduled offence other than murder and the court is of opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the offender to be detained for such period as may be specified in the

sentence ; and where such a sentence has been passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Minister³ may direct.

Where such a sentence is passed, the court shall remand the child or young person to a remand home pending his detention pursuant to the directions of the Minister.³

[§ 4, 13 of 1944.]

(3) A person detained pursuant to the directions of the Governor-General or Minister³ under this section shall, while so detained, be deemed to be in legal custody.

(4) Any person so detained as aforesaid may, at any time, be discharged by the Minister³ on licence. Such a licence may be in such form and may contain such conditions as the Minister³ may direct, and may at any time be revoked or varied by the Minister.³

Where a licence has been revoked the person to whom the licence related shall return to such place as the Minister³ may direct, and, if he fails to do so, may be apprehended without warrant and taken to that place.

25. (1) Where a child or young person is found guilty by any court of an offence punishable in the case of an adult with imprisonment, whether with or without a fine, the court may order that he be committed to custody in a remand home for such term as may be specified in the order, not exceeding the term for which he might, but for this Ordinance, be ordered to be imprisoned, nor in any case exceeding one month.

Substitution
of custody in
remand home
for imprison-
ment.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

26. (1) Where a child who has attained the age of twelve years or a young person is found guilty by any court of an offence punishable in the case of an adult with imprisonment, whether with or without a fine, the court may order him to be sent to an approved or certified school.

Power to
send a child
or young
offender to
an approved
or certified
school.

[§ 5, 13 of 1944.]

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

Power to
commit child
or young
offender to
care of
probation
officer or
parent, &c.

27. (1) Where a child or young person is found guilty by any court of any offence the court may—

- (a) order him to be delivered to his parent or guardian or nearest adult relative, on such parent, guardian, or relative executing a bond, with or without sureties, that he will be responsible for the good behaviour of the child or young person for any period not exceeding one year ; or
- (b) order him to be placed for a period not exceeding three years in charge of some fit person, whether a relative or not, who is willing to undertake the care of him ; or
- (c) make any order which the court is competent to make under section 325 of the Criminal Procedure Code discharging the child or young person conditionally on his entering into a recognizance ; or
- (d) except where the court is a Rural Court, make a probation order in respect of the child or young person, subject to and in accordance with the provisions of any other written law relating to the release of offenders on probation.

[§ 22, 42 of 1944.]

[§ 22, 42 of 1944.]

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

(3) Where a court makes an order under paragraph (b) of subsection (1), it may in such order give such directions with regard to the supervision of the child or young person as it may think fit.

(4) Where a court makes an order under paragraph (c) of subsection (1), the provisions of Chapter XXVI of the Criminal Procedure Code shall be applicable in the case of the child or young person in respect of whom the order is made.

Power to
order parent
to pay fine
instead of
child or
young person.

28. (1) Where a child or young person is charged before any court with any offence punishable in the case of an adult with a fine the court, if it is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, may in any case, and shall if the offender is a child,

order that the fine awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 29 (1).

(3) An order under subsection (1) may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) Any sum ordered under subsection (1) to be paid by a parent or guardian may be recovered from him as if it were a fine and in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person is charged.

(5) A parent or guardian may appeal to the Supreme Court against an order under subsection (1) if made by any court other than the Supreme Court and the provisions of Chapter XXX of the Criminal Procedure Code shall apply to an appeal so preferred.

29. (1) Where a child or young person who is a male is found guilty by any court of any offence, the court may, if it is for any reason of opinion that the case is one in which corporal punishment should be inflicted, make order that the child or young person shall receive not more than six strokes with a light cane or rattan, such strokes to be inflicted in the presence of the court and, if the parent of the child or young person desires to be present, in his presence :

Infliction of
corporal
punishment
on a child or
young person.

Provided that no order under this section shall be made in any case unless the court also makes an order under not more than one of the following sections :—

25 (1), 26 (1), 27 (1) and 28 (1).

(2) Every court which makes an order under subsection (1), shall record in writing its reasons for making such order.

Discharge of child or young person after admonition.

30. Where a child or young person is found guilty of any offence by any court, the court, in any case in which it is of opinion that it is not necessary or expedient to deal with the child or young person under the provisions of sections 25 to 29, may after due admonition discharge the child or young person.

Power of other courts to remit a child or young offender to Juvenile Courts.

31. (1) Any court by or before which a child or young person is found guilty of an offence other than murder may, if it thinks fit, remit the case to the Magistrate's Court sitting as a Juvenile Court of the district within which the offence was committed ; and where any such case is so remitted, the offender shall be brought before such Juvenile Court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.

(2) No appeal shall lie against an order of remission made under subsection (1), but nothing in this subsection shall affect any right of appeal against the verdict or finding on which such an order is founded, and a person aggrieved by the order of the Juvenile Court to which the case was so remitted may appeal to the Supreme Court as if he had been tried and found guilty by the Juvenile Court.

(3) A court by which an order remitting a case to a Juvenile Court is made under subsection (1) may give such directions as appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before the Juvenile Court, and shall cause to be transmitted to the Juvenile Court a certificate setting out the nature of the offence and stating that the offender has been found guilty thereof and that the case has been remitted for the purpose of being dealt with under subsection (1).

Power of Minister to send certain children and young offenders to approved or certified schools.

32. The Minister¹ may by order direct that—

- (a) a child or young person with respect to whom he is authorized to give directions under section 24 (2); or
- (b) a young person who has been ordered to be imprisoned and has been pardoned by the Governor-General² on condition of his agreeing to undergo training in a school,

shall be transferred or sent to and detained in an approved or certified school specified in the order; and any such order shall be an authority for the detention of the person to whom it relates until such date as may be specified in the order :

Provided that the date to be so specified shall be not later than that on which he will in the opinion of the Minister¹ attain the age of nineteen years nor later—

- (a) in the case of a person who was sentenced to detention under section 24 (2), than the date on which his detention would have expired ;
- (b) in the case of a young person who has been sentenced to imprisonment and pardoned as aforesaid, than three years from the date as from which his sentence began to run.

33. The words “conviction” and “sentence” shall cease to be used in relation to children and young persons dealt with summarily and any reference in any written law to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be.

Miscellaneous provisions as to summary proceedings against children and young persons.

CHILDREN AND YOUNG PERSONS IN NEED OF CARE OR PROTECTION

34. (1) For the purposes of this Ordinance a child or young person in need of care or protection means a person who is—

Definition of “in need of care or protection”.

- (a) a child or young person who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is either falling into bad associations, or exposed to moral danger, or beyond control ; or
- (b) a child or young person who—
 - (i) being a person in respect of whom any of the offences mentioned in the First Schedule has been committed ; or

- (ii) being a member of the same household as a child or young person in respect of whom such an offence has been committed ; or
- (iii) being a member of the same household as a person who has been convicted of such an offence in respect of a child or young person ; or
- (iv) being a female member of a household whereof a member has committed an offence under section 17 of the Marriage Registration Ordinance in respect of another female member of that household,

requires care or protection ; or

- (c) a child in respect of whom an offence has been committed under section 77 (which relates to the punishment of vagrants preventing children from receiving education).

(2) For the purposes of this section, the fact that a child or young person is found destitute, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing or offering anything for sale), or is found loitering for the purpose of so begging or receiving alms, shall, without prejudice to the generality of the provisions of paragraph (a) of subsection (1), be evidence that he is exposed to moral danger.

Powers of
Juvenile
Courts in
respect of
children and
young persons
in need of
care or
protection.

35. (1) If a Magistrate's Court sitting as a Juvenile Court is satisfied that any person brought before the court under this section by any officer of a local authority, or by any police officer or authorized person, is a child or young person in need of care or protection, the court may either—

- (a) if he has attained the age of twelve years, order him to be sent to an approved or certified school ; or
- (b) commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him ; or

[§ 6, 13 of 1944.]

- (c) order his parent or guardian to enter into a recognizance to exercise proper care and guardianship ; or
- (d) without making any other order, or in addition to making an order under either of the last two foregoing paragraphs, make an order placing him for a specified period, not exceeding three years, under the supervision of a probation officer, or of some other person appointed for the purpose by the court.

(2) Any officer of a local authority, or any police officer or authorized person having reasonable grounds for believing that a child or young person is in need of care or protection may bring him before a Magistrate's Court sitting as a Juvenile Court.

[§ 6, 13 of 1944.]

(3) For the purposes of this section, the expression "authorized person" means any officer of a society which is authorized by general or special order of the Governor-General⁴ to institute proceedings under this section, and any person who is himself so authorized.

36. (1) Any court by or before which a person is convicted of having committed in respect of a child or young person any of the offences mentioned in the First Schedule or any offence under section 77, may—

Powers of other courts with respect to last foregoing section.

- (a) direct that the child or young person be brought before a Magistrate's Court sitting as a Juvenile Court with a view to that court making such order under the last foregoing section as may be proper ; or
- (b) if satisfied that the material before the court is sufficient to enable it properly to exercise jurisdiction, make any order which the Juvenile Court might make.

(2) Where any court has, under this section, directed that a child or young person be brought before a Magistrate's Court sitting as a Juvenile Court, it shall be the duty of the officer or person specified in that behalf in the order to bring the child or young person before such a court under section 35.

[§ 7, 13 of 1944.]

Removal or
remand of
child or
young person
to place of
safety.
[§ 8, 13 of 1944.]

37. (1) A police officer of a rank not below that of Sub-Inspector or any person authorized by any court, may take to a place of safety any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Ordinance has been or is believed to have been committed, or who is about to be brought before a Juvenile Court in accordance with section 35 or section 36, and a child or young person so taken to a place of safety, and any child or young person who has taken refuge in a place of safety, may be detained there until he can be brought before a Juvenile Court.

(2) If a Juvenile Court before which any child or young person is brought is not in a position to decide whether any and, if so, what, order ought to be made under section 35 or section 36, it may make such interim order as it thinks fit for his detention or continued detention in a place of safety or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

An interim order under this subsection shall not remain in force for more than twenty-eight days ; but if at the expiration of that period the court deems it expedient to do so, it may make a further interim order.

SUPPLEMENTARY PROVISIONS AS TO ORDERS OF COURT

Supervision
by probation
officers or
other persons.

38. (1) Where a court makes an order under any of the provisions of this Ordinance placing a child or young person under the supervision of a probation officer or of some other fit person, that officer or person shall, while the order remains in force—

- (a) visit or receive reports from the child or young person under supervision at such reasonable intervals as may be specified in the order, or subject thereto, as the officer or person shall think fit ;
- (b) see that the conditions of any recognizance entered into by or in respect of the child or young person are observed ;
- (c) make report to the court as to the behaviour of the child or young person ;

- (d) advise, assist, and befriend the child or young person and, when necessary, endeavour to find him suitable employment ; and
- (e) if it appears necessary in the interests of the child or young person so to do, at any time while the order is in force and he is under the age of sixteen years, bring him before the Magistrate's Court sitting as a Juvenile Court, of the division within which he is resident, and that court may, if it thinks that it is desirable in his interests so to do, order him to be sent to an approved or certified school or commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

(2) Where the probation officer or other person named in the order as aforesaid placing a child or young person under supervision has died or is unable for any reason to carry out his duties, or where it is made to appear that it is for any reason desirable that another person should be appointed in the place of that officer or person, a Juvenile Court may appoint another probation officer or person to act in his place.

39. (1) A court before making an approved school order with respect to any child or young person shall endeavour to ascertain his religious persuasion.

(2) A court or the Governor-General⁴ or the Minister,¹ in determining the approved school to which a person is to be sent shall, where practicable, select a school for persons of the religious persuasion to which he belongs.

Regard to be had to religious persuasion of person sent to approved or certified school.

[§ 9, 13 of 1944.]

(3) Where an order has been made sending a person to an approved school which is not a school for persons of the religious persuasion to which he belongs, his parent, guardian, or nearest adult relative may apply—

[§ 9, 13 of 1944.]

- (a) if the order was made by a court of summary jurisdiction, to that court sitting as a Juvenile Court ;
- (b) in any other case, to the Minister,¹ to remove or send the person to a certified school, or to an approved school for persons of his religious persuasion,

and the court or the Minister³ shall, on proof of his religious persuasion and notwithstanding any declaration with respect thereto embodied in the approved school order, if any, relating to him, comply with the request of the applicant :

Provided that nothing in this subsection shall empower a court, or impose an obligation upon the Minister,³ to comply with any request as aforesaid unless—

- (a) accommodation is available at a certified school ;
or
- (b) the applicant has named an approved school for persons of the religious persuasion in question and shown to the satisfaction of the court or the Minister³ that the manager thereof has accommodation available.

Coming into
force of
approved or
certified
school
order.

40. (1) An approved or certified school order may be made to take effect immediately, or its operation may be postponed to a later date specified in the order or to be subsequently specified by endorsement thereon in accordance with the provisions of this Ordinance :

Provided that the operation of any such order shall not be postponed except pending the completion of arrangements for the reception of the child or young person into a suitable school or on account of his ill-health.

(2) If an approved or certified school order is not made to take effect immediately, or if, at the time when such an order takes effect, the child or young person cannot be sent to the school, the court which made the order or any other court which would have jurisdiction to make an endorsement thereon under the next following section may make an order committing him either to custody in any place to which he might be committed on remand or to the custody of a fit person to whose care he might be committed under this Ordinance and, subject as hereinafter provided, that order shall have effect until he is sent to an approved or certified school in pursuance of the order :

Provided that an order made under this subsection shall not remain in force for more than twenty-eight days, but if at the expiration of that period any such court as aforesaid considers it expedient so to do the court may make a further order under this subsection.

(3) Any order made under this subsection may be made in the absence of the child or young person concerned.

41. (1) Every approved or certified school order shall contain a declaration as to the age and religious persuasion of the child or young person with respect to whom the order is made, and shall specify the name and address, if ascertainable, of the parents, guardian or nearest adult relative of the child or young person.

Contents of
approved or
certified
school orders.
[§ 10, 13 of 1944.]

(2) Every approved or certified school order which is made to take effect immediately shall—

- (a) specify the approved or certified school to which the child or young person with respect to whom the order is made is first to be sent, being that one of the available schools (whether situated within the jurisdiction of the court making the order or not) which the court, after considering any representations made to it, considers to be most suitable to the case; and
- (b) state the authority or person who is to be responsible for conveying to the school the child or young person with respect to whom the order is made.

(3) Where an approved or certified school order is not made to take effect immediately, then if either the date to which its operation is postponed or the school to which the child or the young person is to be sent or the authority or person who is to be responsible for conveying him, is not specified in the order, the date, school, authority, or person, shall be subsequently specified by endorsement thereon.

(4) If for any reason a child or young person with respect to whom an approved or certified school order has been made cannot be received into the approved or certified school specified in or endorsed upon the

order, another school may be specified by an endorsement or further endorsement thereon, as the case may be.

(5) An endorsement under the foregoing provisions of this section may be made either—

- (a) by the court which made the approved or certified school order ; or
- (b) if the order was made by a court of summary jurisdiction, by that court, sitting as a Juvenile Court ; or
- (c) if the order was made by any court other than a court of summary jurisdiction—
 - (i) by the Magistrate's Court, sitting as a Juvenile Court, of the division in which the child or young person was committed for trial ; or
 - (ii) if the child or young person was not committed for trial, by the Magistrate's Court, sitting as a Juvenile Court, of the division within which he was resident ;

and any such endorsement may be made in the absence of the child or young person concerned.

(6) An approved or certified school order made by reason of the commission of an offence under section 77 (which relates to the punishment of a vagrant preventing a child from receiving education) shall state that it is so made.

Duration of approved or certified school orders.

42. (1) Where a court orders a child to be sent to an approved or certified school, the order shall be an authority for his detention in an approved or certified school, as the case may be, until the expiration of a period of three years from the date of the order, and, if at the expiration of that period he is under the age of fourteen years, for his further detention until he attains that age.

(2) Where a court orders a young person to be sent to an approved or certified school the order shall be an authority for his detention in such school until the expiration of a period of three years from the date of the order.

43. (1) The court which makes, or makes any endorsement upon, an approved or certified school order shall cause it to be delivered to the person responsible for conveying the child or young person to the school, and the authority or person conveying him to the school shall deliver the order to the headmaster or person for the time being in charge of the school.

Conveyance
of children or
young persons
to approved
or certified
schools.

(2) The court by which an approved or certified school order is made shall cause a record in the prescribed form, embodying all such information in the possession of the court with respect to the child or young person as is in the opinion of the court material to be known by the manager of the school, to be prepared and transmitted to the headmaster or person for the time being in charge of the school.

(3) The authority or person specified in any approved or certified school order to be responsible for conveying a child or young person to the school shall be responsible for conveying him there and any expenses incurred in doing so shall be deemed to be an expense incurred in the administration of this Ordinance for the purposes of section 86.

(4) Where a child or young person has been ordered to be sent to an approved or certified school, any person who harbours, conceals, or aids him after the time has come for him to go to the school shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding two months or to a fine not exceeding two hundred rupees, or to both such imprisonment and fine.

(5) Where the authority or a person authorized to take a child or young person to an approved or certified school, is, when the time has come for the child or young person to go to the school, unable to find him or unable to obtain possession of him a Magistrate may, if satisfied by information on oath that some person named in the information can produce the child or young person, issue a summons requiring the person so named to attend at the court on such day as may be specified in the summons and produce the child or young person, and if he fails to do so without reasonable excuse he

shall in addition to any other liability to which he may be subject under the provisions of this Ordinance, be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

Extension of period of detention in approved or certified school.

44. If the manager of an approved or certified school is satisfied that a person whose period of detention therein is, under the foregoing provisions of this Ordinance, about to expire, needs further care or training and cannot be placed in suitable employment the manager may, with the approval of the Minister,¹ detain him for a further period not exceeding six months, so, however, that he is not detained beyond the date on which he will attain the age of nineteen years :

Provided that the powers conferred by this section shall not extend to a person who, having been a person sentenced to detention under section 24 (2), is detained in an approved or certified school by order of the Minister.¹

Supervision and recall after expiration of order.

45. (1) A person sent to an approved or certified school shall, after the expiration of the period of his detention, be under the supervision of the manager of the school, if at the expiration of that period he has not attained the age of fourteen years, until he attains the age of sixteen years.

(2) The manager may, and, if the Minister¹ so directs, shall, by notice in writing, recall to the school any person under his supervision who is at the date of recall under the age of sixteen years :

Provided that a person shall not be so recalled unless in the opinion of the manager, or, as the case may be, of the Minister,¹ it is necessary in his interests to recall him.

(3) A person who has been so recalled shall be released as soon as the manager thinks that he can properly be released, and in no case shall he be detained—

- (a) after the expiration of a period of three months or such longer period not exceeding six months as the Minister¹ may, after considering the circumstances of his case, direct ; or
- (b) after attaining the age of sixteen years.

(4) The manager shall forthwith notify the Director of Education of the recall of any person and shall state the reasons for his recall, and when the manager releases any person so recalled he shall forthwith notify the Director of Education that he has done so.

[§ 11, 13 of 1944.]

(5) For the purposes of this Ordinance a person who is out under supervision from an approved or certified school shall be deemed to be under the care of the manager of the school.

[§ 11, 13 of 1944.]

46. (1) Before making an order under this Ordinance committing a child or young person to the care of a fit person, the court shall endeavour to ascertain the religious persuasion of the child or young person, and in selecting the person to whose care the child or young person is to be committed, the court shall, if possible, select a person who is of the same religious persuasion as the child or young person or who gives an undertaking that he will be brought up in accordance with that religious persuasion.

Provisions as to making, duration, and effect, of orders of committal to fit persons.

(2) Every order committing a child or young person to the care of a fit person shall contain a declaration—

(a) as to the age ; and

(b) as to the religious persuasion,

of the child or young person with respect to whom it is made.

(3) Every order committing a child or young person to the care of a fit person shall, subject to the provisions of this Ordinance, remain in force until he attains the age of sixteen years.

(4) The person to whose care a child or young person is committed by any such order as aforesaid shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of his maintenance as if he were his parent, and the person so committed shall continue in his care notwithstanding any claim by a parent or any other person.

Application
of Part II.

47. The provisions of this Part shall have effect in respect of criminal proceedings notwithstanding anything to the contrary in the Penal Code, the Criminal Procedure Code, the Rural Courts Ordinance, or any other written law ; but such provisions of those Codes, of that Ordinance and of such other law as are not inconsistent with the provisions of this Part shall continue to apply in respect of such proceedings.

PART III

REMAND HOMES, APPROVED SCHOOLS, CERTIFIED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

REMAND HOMES

Establishment
of remand
homes, and
appointment
of Visitors.

48. (1) The Minister¹ may by Order¹ published in the Gazette establish one or more remand homes for the purposes of this Ordinance.

(2) The Minister¹ may appoint one or more persons by name or by office to be Visitors to any remand home established under subsection (1).

Provisions as
to custody of
children and
young
persons in a
remand home.

49. (1) Where a child or young person is committed to custody in a remand home, the order shall be delivered with the child or young person to the person in charge of the home and shall be sufficient authority for the detention of that child or young person in the home in accordance with the tenor of the order.

(2) A child or young person while so detained and while being conveyed to and from the remand home shall be deemed to be in lawful custody.

(3) A child or young person who escapes from a remand home may be apprehended without warrant and brought back thereto ; and any person who knowingly assists or induces a child or young person so to escape or knowingly harbours or conceals a child or young person who has so escaped, or prevents him from returning, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

APPROVED SCHOOLS

50. (1) The manager of any boarding school may apply to the Director of Education to approve the school for the purpose of the education, training and detention of children and young persons to be sent there in pursuance of this Ordinance, and the Director may, subject to the approval of the Minister,³ and after making such inquiries as he thinks fit, issue a certificate of approval to the manager of that school.

Approval of schools.

[§ 12, 13 of 1944.]

[§ 12, 13 of 1944.]

(2) If at any time the Minister¹ is dissatisfied with the condition or management of a school so approved or considers its continuance as an approved school unnecessary, he may, by notice served on the manager, withdraw the approval of the school, as from a date specified in the notice, not being less than six months after the date of the notice, and upon the date so specified (unless the notice is previously withdrawn) the withdrawal of the approval shall take effect and the school shall cease to be an approved school :

Provided that the Minister,¹ instead of withdrawing the approval, may by a notice served on the manager of the school prohibit the admission of persons to the school for such time as may be specified in the notice, or until the notice is revoked.

(3) The manager of an approved school may, on giving six months' notice in writing to the Director of Education of his intention so to do, surrender the certificate of approval of the school, and at the expiration of six months from the date of the notice (unless the notice is previously withdrawn), the surrender of the certificate shall take effect, and the school shall cease to be an approved school.

[§ 12, 13 of 1944.]

(4) No person shall in pursuance of this Ordinance be received into the care of the manager of an approved school after the date of the receipt by the manager of the school of a notice of withdrawal of the certificate of approval of the school or after the date of a notice of intention to surrender the certificate ; but the obligations of the manager with respect to persons under his care at the respective dates aforesaid shall continue until the withdrawal or surrender takes effect.

(5) Notification of the grant of any certificate of approval of an approved school and of any notice of the

withdrawal of, or intention to surrender, such a certificate, shall, within one month from the date thereof, be published in the Gazette.

CERTIFIED SCHOOLS

Establishment of certified schools.

51. (1) The Minister¹ may by Order¹ published in the Gazette establish one or more certified schools for the purposes of this Ordinance.

(2) The Minister¹ may appoint to each certified school—

- (a) a manager and such other officers as to him may seem necessary ;
- (b) one or more persons to be Visitors of that school.

[§ 13, 13 of 1944.]

(3) The provisions of section 35 of the Education Ordinance shall apply *mutatis mutandis* in the case of every certified school and of the children and young persons in every such school.

Rules regarding remand homes and approved and certified schools.

[§ 14, 13 of 1944.]

52. (1) Rules may be made—

- (a) for the management, administration, inspection, and control of remand homes, approved schools, and certified schools ;
- (b) for the treatment, employment and control of children and young persons in remand homes, approved schools and certified schools, and for such children and young persons being visited from time to time by Visitors appointed under this Ordinance ;
- (c) for the classification of children and young persons in remand homes ;
- (d) for the grant of temporary leave of absence to children and young persons detained in approved or certified schools, for the grant to such children and young persons of licences permitting them to live outside such schools, and prescribing the persons by whom, and the conditions and restrictions subject to which, such leave or licence may be granted or revoked.

(2) Rules made under subsection (1) may distinguish between different schools or classes of schools.

(3) The power to make rules under subsection (1) shall—

[§ 14, 13 of 1944.]

- (a) in the case of rules relating to remand homes and to children and young persons in remand homes, be vested in the Minister charged with the administration of the subject of Remand Homes;¹
- (b) in the case of rules relating to approved and certified schools and to children and young persons in such schools, be vested in the Minister charged with the administration of the subject of Education.¹

53. (1) The Minister¹ may, by Order published in the Gazette, classify approved and certified schools according to the age of the persons for whom they are intended, the religious persuasion of such persons, the character of the education and training given therein, their geographical position, and otherwise as he thinks best calculated to secure that a person sent to an approved or certified school is sent to a school appropriate to his case, or as may be necessary for the purposes of this Ordinance.

Classification, administration, and management of approved and certified schools.

(2) The manager of an approved or certified school shall be bound to accept any person who, in pursuance of this Ordinance, is sent or transferred to his school or otherwise to his care, unless—

- (a) the school is an approved school for persons of a particular religious persuasion not being that of the person whom it is proposed to send or transfer ; or
- (b) the manager of the school satisfies the Minister¹ that there are already as many persons detained in that school, or, as the case may be, otherwise under his care, as is desirable.

[§ 15, 13 of 1944.]

54. (1) Where a child or young person who is detained in an approved school is of a religious persuasion other than that of the proprietor or manager of the school, such child or young person shall not, except with the express written consent of his parent, be required or permitted by the person for the time being

Religious instruction, &c., to person detained in approved school.

[§ 16, 13 of 1944.]

in charge of the school to attend any religious worship or religious observance or any instruction in religious subjects in the school or elsewhere.

(2) Where a child who is detained in any approved school is of the same religious persuasion as that of the proprietor or manager of the school, such child or young person may be compelled by the person for the time being in charge of the school to attend any religious worship or religious observance or any instruction in religious subjects.

Escapes from approved and certified schools, &c.

55. (1) Any person who has been ordered to be sent to an approved or certified school and who—

- (a) escapes from the school in which he is detained or from any hospital, home or institution in which he is receiving medical attention ; or
- (b) being absent from his school on temporary leave of absence or on licence, runs away from the person in whose charge he is, or fails to return to the school upon the expiration of his leave, or upon the revocation of his licence,

may be apprehended without warrant, and may (the provisions of any other written law to the contrary notwithstanding), be brought before the Magistrate's Court, sitting as a Juvenile Court, of the division in which he is found or his school is situate ; and that court may (notwithstanding any limitations contained in this Ordinance upon the period during which he may be so detained in an approved or certified school) order him—

- (a) if he is under the age of sixteen years, to be brought back and to have the period of his detention in the school increased by such period not exceeding six months as the court may direct ; or
- (b) if he has attained the age of sixteen years, to be brought back and to have the period of his detention so increased or to be sent for a period of three years to any training school for youthful offenders established under the provisions of any written law.

(2) Where a person is under subsection (1) brought back to his school, the period of his detention shall (notwithstanding any limitations contained in this Ordinance upon the period during which he may be detained in an approved or certified school) be increased, over and above any increase ordered by a court, by a period equal to the period during which he was unlawfully at large.

(3) If any person knowingly—

- (a) assists or induces a person to commit any such offence as is mentioned in subsection (1) ; or
- (b) harbours or conceals a person who has committed such an offence, or prevents him from returning,

he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding two months, or to both such fine and imprisonment.

(4) If a Magistrate is satisfied by information on oath that an offence under subsection (1) has been committed and that there is reasonable ground for believing that some person named in the information could produce the offender, the court may issue a summons requiring that person to attend at the court on such date as may be specified in the summons, and to produce the offender, and if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Ordinance, be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

56. The Director of Education, and all such other officers of the Department of Education as may be specially or generally authorized by the Director in that behalf, shall, in the exercise and performance of the powers and duties conferred or imposed on them by or under this Ordinance, be subject to the general direction and control of the Minister charged with the administration of the subject of Education.¹

Powers, &c.,
of Director
of Education
and other
officers.
[§ 18, 13 of 1944.]

FIT PERSONS

General provisions as to children and young persons committed to the care of fit persons.

57. (1) The provisions of this section shall apply in relation to orders under this Ordinance committing a child or young person to the care of a fit person, and in this section the expressions "child" and "young person" mean a person with respect to whom such an order is in force irrespective of whether at the date of the making of the order, or at any subsequent date while the order is in force, he was, or is, a child or young person.

(2) The Minister¹ may, if he thinks fit, make rules as to the manner in which children and young persons so committed are to be dealt with and as to the duties of the persons to whose care they are committed.

(3) The Minister¹ may, at any time in his discretion, discharge a child or young person from the care of the person to whose care he has been committed and any such discharge may be granted either absolutely or subject to conditions.

(4) An order committing a child or young person to the care of a fit person may, on the application of any person, be varied or revoked—

(a) if the order was made by a court of summary jurisdiction, by that court sitting as a Juvenile Court ;

(b) in any case, by the Magistrate's Court, sitting as a Juvenile Court, of the division within which the child or young person is residing.

(5) If, on an application made by the parent or guardian or any near relative of a child or young person committed by any such order as aforesaid, any court having power to vary or revoke the order is satisfied that he is not being brought up in accordance with his religious persuasion, the court shall, unless a satisfactory undertaking is offered by the person to whose care he has been committed, either revoke the order or vary it in such manner as the court thinks best calculated to secure that he is thenceforth brought up in accordance with that persuasion.

58. (1) A child or young person who runs away from a person to whose care he has been committed under this Ordinance may be apprehended without warrant and brought back to that person, if he is willing to receive him, and if he is not willing to receive him, may be brought—

Escapes from care of fit persons.

- (a) if the order committing him to the care of that person was made by a court of summary jurisdiction, before that court sitting as a Juvenile Court ;
- (b) in any case, before the Magistrate's Court, sitting as a Juvenile Court, of the division in which he was residing immediately before he ran away ;

and that court may make any order with respect to him which the court might have made if that child or young person had been brought before it as being a child or young person who, having no parent or guardian, was beyond control.

(2) Any person who knowingly—

- (a) assists or induces a child or young person to run away from a person to whose care he has been committed under this Ordinance ; or
- (b) harbours or conceals a child or young person who has so run away, or prevents him from returning,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding two months, or to both such fine and imprisonment.

PART IV

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

GENERAL PROVISIONS AS TO EMPLOYMENT

59. (1) Subject to the provisions of this section and of any regulation made thereunder no child shall be employed—

Restrictions on employment of children.

- (a) so long as he is under the age of twelve years ; or

- (b) before the close of school hours on any day on which he is required to attend school ; or
- (c) before six o'clock in the morning or after eight o'clock in the evening on any day ; or
- (d) for more than two hours on any day on which he is required to attend school ; or
- (e) for more than two hours on any Sunday ; or
- (f) to lift, carry or move anything so heavy as to be likely to cause injury to him ; or
- (g) in any occupation likely to be injurious to his life, limb, health, or education, regard being had to his physical condition.

(2) The Minister¹ may, with the concurrence of the Minister charged with the subject of Labour,² make regulations with respect to the employment of children, and any such regulations may distinguish between children of different ages and sexes and between different localities, trades, occupations and circumstances, and may contain provisions—

(a) authorizing—

(i) the employment of children under the age of twelve years (notwithstanding anything in paragraph (a) of the last foregoing subsection) by their parents or guardians in light agricultural or horticultural work ;

(ii) the employment of children (notwithstanding anything in paragraph (b) of the last foregoing subsection) for not more than one hour before the commencement of school hours on any day on which they are required to attend school ;

(b) prohibiting absolutely the employment of children in any specified occupation ;

(c) prescribing—

(i) the age below which children are not to be employed ;

- (ii) the number of hours in each day, or in each week, for which, and the times of day at which, they may be employed ;
- (iii) the intervals to be allowed to them for meals and rest ;
- (iv) the holidays or half-holidays to be allowed to them ;
- (v) any other conditions to be observed in relation to their employment,

so, however, that no such regulations shall modify the restrictions contained in the last foregoing subsection save in so far as is expressly permitted by paragraph (a) of this subsection, and any restriction contained in any such regulations shall have effect in addition to the said restrictions.

(3) Nothing in paragraph (c) or in paragraph (d) of subsection (1), or in any regulation made under this section, shall prevent a child from taking part without fee or reward in an entertainment the net proceeds of which are devoted to any charitable or educational purpose or to any purpose other than the private profit of the promoters.

60. (1) Subject to the provisions of this section, the Minister¹ may, with the concurrence of the Minister charged with the subject of Labour,² make regulations with respect to the employment of persons under the age of eighteen years other than children, and any such regulation may distinguish between persons of different ages and sexes, and between different localities, trades, occupations and circumstances, and may contain provisions prescribing—

Power to make regulations with respect to employment of persons under eighteen other than children.

- (a) the number of hours in each day or in each week for which, and the times of day at which, they may be employed ;
- (b) the intervals to be allowed to them for meals and rest ;
- (c) the holidays or half-holidays to be allowed them ;
- (d) any other conditions to be observed in relation to their employment.

(2) Nothing in this section shall empower the Minister¹ to make regulations with respect to—

- (a) employment in or about the delivery, collection or transport of goods, except in the capacity of van boy, errand boy, or messenger ;
- (b) employment in or in connection with factories, workshops, mines, quarries, shops, or offices, except in the capacity of van boy, errand boy, or messenger ;
- (c) employment in the building or engineering trades, except in the capacity of van boy, errand boy, or messenger ;
- (d) employment in agriculture ;
- (e) employment in domestic service, except as non-resident daily servant ;
- (f) employment in any ship or boat registered in Ceylon as a British ship.

(3) This section shall not come into operation until such date as may be appointed by the Minister by Order¹ published in the Gazette.

Street trading.

61. No child shall engage or be employed in street trading.

Restrictions
by local
authority
on employ-
ment of
children.

62. (1) A local authority, if satisfied by a report of a registered medical practitioner or otherwise, that any child resident within its area is being employed in such a manner as to be prejudicial to his health or physical development, or to render him unfit to obtain the proper benefit from his education, may either prohibit, or attach such conditions as it may think fit to, his employment in that or any other manner, notwithstanding that the employment may be authorized under any other provision of this Ordinance or under the provisions of any other written law.

(2) It shall be the duty of the employer and the parent of any child who is in employment, if required by the local authority, to furnish to the authority such information as to his employment as the authority may require, and, if the parent or employer fails to comply

with any requirement of the local authority or wilfully gives false information as to the employment, he shall be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

63. No person—

(a) shall employ a child in such a manner as to prevent the child from attending school in accordance with the provisions of any written law ; or

(b) having received notice of any prohibition or restriction as to the employment of a child issued under the last foregoing section, shall employ a child in such a manner as to contravene the prohibition or restriction.

Restriction on employment of children and young persons attending school.

[§ 20, 13 of 1944.]

64. (1) If a person is employed in contravention of any of the foregoing provisions of this Part, or of the provisions of any regulation made thereunder, the employer and any person (other than the person employed) to whose act or default the contravention is attributable shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty rupees or, in the case of a second or subsequent offence, not exceeding two hundred rupees :

Penalties and legal proceedings in respect of general provisions as to employment.

Provided that, if proceedings are brought against the employer, the employer upon complaint duly made by him in accordance with the provisions of section 148 of the Criminal Procedure Code, and on giving to the prosecution not less than three days' notice of his intention, shall be entitled subject to the provisions of Chapter XV of that Code, to have any person (other than the person employed) to whose act or default he alleges that the contravention was due, brought before the court as a party to the proceedings, and if, after the contravention has been proved, the employer proves to the satisfaction of the court that the contravention was due to the act or default of the said other person, that person may be convicted of the offence ; and if the employer further proves to the satisfaction of the court that he has used all due diligence to secure that the

provisions in question should be complied with, he shall be acquitted of the offence.

(2) Where an employer seeks to avail himself of the proviso to the last foregoing subsection,

- (a) the prosecution shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his charge against the other person, and to call rebutting evidence ; and
- (b) the court may make such order as it thinks fit for the payment of costs not exceeding twenty-five rupees by any party to the proceedings to any other party thereto, and any sum so ordered to be paid shall be recoverable in the same manner as a fine.

ENTERTAINMENTS AND PERFORMANCES

Restrictions
on children
taking part
in entertain-
ments.

65. Subject to the provisions of this section a child shall not take part in any entertainment in connection with which any charge, whether for admission or not, is made to any of the audience ; and every person who causes or procures a child, or being his parent or guardian allows him, to take part in an entertainment in contravention of this section, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty rupees or, in the case of a second or subsequent offence, not exceeding two hundred rupees :

Provided that this section shall have no application to the case of a child who takes part, without fee or reward, in an entertainment the net proceeds of which are devoted to any charitable or educational purpose or to any purpose other than the private profit of the promoters.

Prohibition
against
persons under
sixteen
taking part in
performances
endangering
life or limb.

66. No person under the age of sixteen years shall take part in any public performance in which his life or limbs are endangered and every person who causes or procures such a person, or being his parent or guardian allows him, to take part in such a performance, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine

not exceeding one hundred rupees or, in the case of a second or subsequent offence, not exceeding five hundred rupees.

67. (1) No person under the age of twelve years shall be trained to take part in performances of a dangerous nature, and no person under the age of sixteen years shall be trained to take part in such performances except under and in accordance with the terms of a licence granted and in force under this section ; and every person who causes or procures a person, or being his parent or guardian allows him, to be trained to take part in performances of a dangerous nature in contravention of this section, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty rupees or, in the case of a second or subsequent offence, not exceeding two hundred rupees.

Restrictions
on training
for perfor-
mances of
a dangerous
nature.

(2) A Magistrate may grant a licence for a person who has attained the age of twelve years but is under the age of sixteen years to be trained to take part in performances of a dangerous nature.

(3) An applicant for a licence under this section shall, at least fourteen days before making the application, give notice thereof to the superintendent of the police of the province in which the person is, in accordance with the provisions of the licence, to be trained, and such superintendent may appear, or instruct some person to appear, before the court and show cause why the licence should not be granted, and no licence shall be granted unless the court is satisfied that notice has been so given.

(4) A licence under this section shall specify the place or places at which the person is to be trained and shall embody such conditions as are, in the opinion of the court, necessary for his protection, but a licence shall not be refused if the court is satisfied that the person is fit and willing to be trained and that proper provision has been made to secure his health and kind treatment.

(5) A licence under this section may, on cause being shown by any person, be revoked by the court.

Powers of
entry.

68. (1) If it is made to appear to a Magistrate by the local authority, or by any police officer, that there is reasonable cause to believe that the provisions of this Part or of a regulation made under the said provisions are being contravened with respect to any person, the Magistrate may by order under his hand addressed to an officer of the local authority, or to a police officer, empower him to enter, at any reasonable time within forty-eight hours of the making of the order, any place in or in connection with which the person in question is, or is believed to be, employed, or as the case may be, in which he is, or is believed to be, taking part in an entertainment or performance, or being trained, and to make enquiries therein with respect to that person.

(2) Any authorized officer of the local authority or any police officer may at any time during the currency of a licence granted under section 67 enter any place where the person to whom the licence relates is authorized by the licence to be trained, and may make enquiries therein with respect to that person.

(3) Any person who obstructs any such officer in the due exercise of any powers conferred on him by or under this section, or who refuses to answer or answers falsely any enquiry authorized by or under this section to be made, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two hundred rupees.

Application
of Part IV.

69. (1) The provisions of this Ordinance imposing restrictions on employment or on the taking part by children in entertainments, and the provisions of any regulations made under this Part, shall not affect any provisions with respect to school attendance which may be contained in any written law for the time being in force in Ceylon relating to education.

(2) The said provisions shall not apply to a person detained in an approved school.

(3) The said provisions shall be in addition to and not in substitution of the provisions of any written law relating to employment in factories, workshops, mines and quarries. or for giving effect to any international convention regulating employment.

70. For the purposes of this Part and of any regulations made thereunder—

Interpretation
of Part IV.

A person who is attending an elementary school and who attains the age of fourteen years during a school term shall not be deemed to cease to be a child until the end of that term ;

The expression “performance of a dangerous nature” includes all acrobatic performances and all performances as a contortionist ;

The expression “street trading” includes the hawking of articles of food or drink, newspapers, matches, flowers and other articles, playing, singing or performing for profit, shoe-blackening and other like occupations carried on in streets or public places ;

A person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour ;

A chorister taking part in a religious service or in a choir practice for a religious service shall not, whether he receives any reward or not, be deemed to be employed.

PART V

PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER

OFFENCES

71. (1) If any person who has attained the age of sixteen years and has the custody, charge, or care of any child or young person, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three years, or to both such fine and imprisonment.

Cruelty to
children and
young
persons.

(2) The provisions of subsection (1) shall be in addition to and not in substitution of the provisions of section 308 of the Penal Code.

(3) For the purposes of this section—

a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if, having sufficient means for the purpose, he has failed to provide adequate food, clothing, medical aid or lodging for him.

(4) A person may be convicted of an offence under this section—

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person ;
- (b) notwithstanding the death of the child or young person in question.

(5) Upon the trial of any person who has attained the age of sixteen years for any offence under section 296 or section 297 of the Penal Code, in respect of a child or young person of whom he had the custody, charge, or care, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section to find him guilty of that offence.

(6) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having lawful control or charge of a child or young person to administer punishment to him.

Causing or encouraging seduction or prostitution of girl under sixteen.

72. (1) If any person having the custody, charge or care of a young person being a female, causes or encourages the commission in respect of her of any offence under section 345 or section 364 or section 364A of the Penal Code, he shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding two years.

(2) Where any offence mentioned in subsection (1) has been committed in respect of a child or young

person being a female, a person shall, if he has knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character, be deemed to have caused or encouraged the commission of that offence for the purposes of this section.

73. If any person having the custody, charge or care of a child who has attained the age of four years or of a young person, allows that child or young person to reside in or to frequent a brothel, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

Allowing persons under sixteen to be in brothels.

74. (1) Any person, other than the father or mother of a child or young person, who causes or procures that child or young person to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), 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 term not exceeding one year, or to both such fine and imprisonment.

Causing or procuring persons under sixteen to beg.

(2) Where any person is arrested for or charged with an offence under subsection (1) in respect of any child or young person and it is claimed that an offence under that subsection has not been committed by reason of the fact that the person so arrested or charged is the father or mother of that child or young person, the burden of proving such fact shall be on the person so arrested or charged.

75. If any person gives, or causes to be given, to any child under the age of five years any excisable article within the meaning of the Excise Ordinance, except upon the order of a duly qualified medical practitioner,

Giving excisable article to children under five.

or in case of sickness, apprehended sickness, or other urgent cause, he shall be guilty of an offence and liable to a fine not exceeding fifty rupees.

Sale of tobacco, &c., to persons under sixteen.

76. (1) Any person who sells to a person apparently under the age of sixteen years any tobacco or cigarettes, shall be guilty of an offence and shall be liable, in the case of a first offence to a fine not exceeding twenty rupees, in the case of a second offence to a fine not exceeding fifty rupees, and in the case of a third or subsequent offence to a fine not exceeding one hundred rupees :

Provided that a person shall not be guilty of an offence under this section in respect of any sale to any person on the written order of the parent, guardian or employer of the person to whom the sale is made.

(2) Any police officer may seize any tobacco or cigarettes in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and any tobacco or cigarettes so seized shall be disposed of in such a manner as the Inspector-General of Police may direct.

(3) Nothing in this section shall make it an offence to sell tobacco or cigarettes to, or shall authorize the seizure of tobacco or cigarettes in the possession of any person who is at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business.

(4) For the purposes of this section the expression "tobacco" includes smoking mixtures intended as a substitute for tobacco, and the expression "cigarettes" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

Vagrants preventing children from receiving education.

77. (1) If a person habitually wanders from place to place and takes with him any child who has attained the age of five years he shall, unless he proves that the child is totally exempted from school attendance or that the child is not by being so taken with him prevented from receiving efficient elementary education, be guilty of an offence and shall be liable to a fine not exceeding ten rupees.

(2) Any police officer who finds a person wandering from place to place and taking a child with him may, if he has reasonable ground for believing that the person is guilty of an offence under this section, apprehend him without a warrant, and may take the child to a place of safety in accordance with the provisions of this Ordinance.

78. Any offence under this Part shall, notwithstanding anything to the contrary in the First Schedule to the Criminal Procedure Code, be a cognizable offence within the meaning of that Code.

Offences under this Part to be cognizable offences.

79. For the purposes of this Part—

Interpretation of Part V.

Any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain him shall be presumed to have the custody of him, and as between father and mother the father shall not be deemed to have ceased to have the custody of him by reason only that he has deserted, or otherwise does not reside with, the mother and the child or young person ;

Any person to whose charge a child or young person is committed by any person who has the custody of him shall be presumed to have charge of the child or young person ;

Any other person having actual possession or control of a child or young person shall be presumed to have the care of him.

PART VI

SUPPLEMENTAL

SUPPLEMENTARY PROVISIONS AS TO LEGAL PROCEEDINGS

80. (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due inquiry as to the age of that person, and for that purpose shall take such evidence as may be

Presumption and determination of age.

forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it has attained the age of sixteen years, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

(2) Where in any charge or indictment for any offence under this Ordinance or any of the offences mentioned in the First Schedule, it is alleged that the person by or in respect of whom the offence was committed was a child or young person or was under or had attained any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or young person, or to have been under or to have attained the specified age, as the case may be, he shall for the purposes of this Ordinance be presumed at that date to have been a child or young person or to have been under or to have attained that age, as the case may be, unless the contrary is proved.

(3) Where, in any charge or indictment for any offence under this Ordinance or any of the offences mentioned in the First Schedule, it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.

(4) Where a person is charged with an offence under this Ordinance in respect of a person apparently under a specified age it shall be a defence to prove that the person was actually of or over that age.

Evidence of husband or wife of accused person.

81. Notwithstanding anything in the Evidence Ordinance contained, the wife or husband of a person charged with an offence specified in the First Schedule shall be a competent witness for the prosecution.

82. In any proceedings under this Ordinance a copy of an entry in the wages book of any employer of labour, or if no wages book be kept a written statement signed by the employer or by any responsible person in his employ, shall be evidence that the wages therein entered or stated as having been paid to any person, have in fact been so paid.

Evidence of wages.

83. Every bond or recognizance required to be executed or entered into under any provisions of this Ordinance by any court or to secure the attendance of any person at any court may be enforced—

Bonds and recognizances.

(a) where the court is a Rural Court, in like manner as a bond or a recognizance executed or entered into under the provisions of any rules of criminal procedure for Rural Courts for the time being in force ;

(b) in any other case, in like manner as a bond executed under the provisions of the Criminal Procedure Code.

84. (1) An appeal shall lie from any order under this Ordinance in the following cases and by the following persons, that is to say—

Appeals from orders made under this Ordinance.

(a) in the case of an order committing a child or young person to the care of a fit person, requiring a child or young person to be sent to a remand home or to an approved or certified school, or placing a child or young person under the supervision of a probation officer or other person, by the child or young person or by his parent or guardian on his behalf ;

(b) in the case of an order requiring a person to enter into a recognizance to be responsible for the good behaviour of a child or young person, by the person required to enter into the recognizance.

(2) Nothing in subsection (1) shall be construed as affecting any right of appeal conferred by any provision of this Ordinance or of any other written law.

(3) Every appeal from any order made under this Ordinance by any court, other than the Supreme Court or a Rural Court, shall lie to the Supreme Court; and the provisions of sections 338 to 352 of the Criminal Procedure Code shall apply to every such appeal.

(4) For the purposes of any appeal from an order made by a Rural Court under this Ordinance such order shall be deemed to be an appealable decision of a Rural Court in a criminal case, and all the provisions of any written law for the time being in force relating to appeals from decisions of Rural Courts in criminal cases shall apply accordingly in the case of appeals from such orders.

APPOINTMENTS, EXPENDITURE, &C.

Power to
appoint
inspectors.

85. There may be appointed for the purposes of this Ordinance a chief inspector, and such number of inspectors as may be deemed fit.

Expenses of
adminis-
tration of
Ordinance.

[§ 21, 13 of 1944.]

86. (1) The expenses incurred in the administration of this Ordinance shall be paid out of the Consolidated Fund.¹

(2) The Minister charged with the subject of Education¹ may make regulations providing for the payment of moneys from State funds towards the expenses of the maintenance in approved schools of children and young persons ordered to be detained in such schools in pursuance of the provisions of this Ordinance, and prescribing the conditions upon which and the restrictions subject to which such payments may be made.

(3) Where regulations have been made under subsection (2), all such payments as are authorized thereby shall be made out of such moneys as may from time to time be voted by Parliament¹ for the purpose.

Rules and
regulations.

87. (1) Every rule and every regulation made by a Minister¹ under this Ordinance shall be brought before the Senate and the House of Representatives¹ by a motion that such rule or regulation shall be approved. No rule or regulation made by a Minister¹ shall have

effect until it has been approved by the Senate and the House of Representatives.¹ Notification of such approval shall be published in the Gazette.

(2) A rule or regulation made by a Minister¹ when approved by the Senate and the House of Representatives¹ shall upon the notification of such approval in the Gazette be as valid and effectual as if it were herein enacted.

88. In this Ordinance, unless the context otherwise requires— Interpretation.

“appointed date”, where it occurs in any provision of this Ordinance, means the date on which that provision comes into operation by virtue of a Proclamation under section 1 ; [§ 24, 13 of 1944.]

“approved school” means a school approved by the Minister¹ under section 50, and “manager of an approved school” means the person having the management or control of an approved school, and where there are two or more of such persons, includes those persons ;

“approved school order” means an order made by a court sending a child or young person to an approved school ;

“certified school” means a school established under section 51 ;

“certified school order” means an order made by a court sending a child or young person to a certified school ;

“child” means a person under the age of fourteen years ;

“court” includes a court of summary jurisdiction ; [§ 24, 13 of 1944.]

“court of summary jurisdiction” means a Magistrate’s Court or Municipal Court, and includes a Rural Court when exercising criminal jurisdiction ;

“guardian” in relation to a child or young person includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge or control over the child or young person ;

- “indictable offence” means any offence which is, according to the First Schedule to the Criminal Procedure Code, triable by the Supreme Court or a District Court ;
- “in need of care or protection” has the meaning assigned to that expression by section 34 ;
- “local authority” means any Municipal Council or Urban Council or Town Council ;
- “Municipal Court” means the court of a Municipal Magistrate ;
- “place of safety” means any remand home or hospital, or the residence of any person nominated by the Minister¹ under section 14 (3) ;
- “prescribed” means prescribed by regulation ;
- “probation officer” means a probation officer appointed under section 17 of the Probation of Offenders Ordinance ;
- “regulation” means a regulation made by the Minister¹ under this Ordinance ;
- “scheduled offence” means an offence specified in the Second Schedule ;
- “young person” means a person who has attained the age of fourteen years and is under the age of sixteen years.

[Sections 34,
36, 80, and
81.]

FIRST SCHEDULE

OFFENCES AGAINST CHILDREN AND YOUNG PERSONS IN RESPECT OF WHICH SPECIAL PROVISIONS OF THIS ORDINANCE APPLY

(1) Any offence under section 308 or section 360 of the Penal Code.

(2) Any offence against a child or young person under any of the following sections of the Penal Code :—

Sections 296, 297, 343, 345, 357, 360A, 364, 364A, 365, 365A.

(3) Any offence against any of the following sections of this Ordinance :—

Sections 71, 72, 73 and 74.

(4) Any other offence involving bodily injury to a child or young person.

SECOND SCHEDULE

[Section 88.]

LIST OF SCHEDULED OFFENCES

Offences under any of the following sections of the Penal Code :—

Section 296,
Section 297,
Section 300,
Section 301, and
Section 383.

CHAPTER 24

PROBATION OF OFFENDERS

*Ordinances*Nos. 42 of 1944,
21 of 1947,*Act*

No. 10 of 1948.

AN ORDINANCE TO AMEND THE LAW RELATING TO THE RELEASE OF OFFENDERS ON PROBATION AND TO THE SUPERVISION OF SUCH OFFENDERS, AND TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF A PROBATION SERVICE.

[16th November, 1944.]

Short title.

1. This Ordinance may be cited as the Probation of Offenders Ordinance.

Application of Ordinance.

2. The Minister of Justice¹ may from time to time by Order¹ published in the Gazette, declare that the provisions of this Ordinance shall be applicable in the case of persons convicted of offences committed within the limits of any judicial division specified in the Order¹

Every judicial division specified in any Proclamation or Order¹ for the time being in force under this section is hereinafter in this Ordinance referred to as a "proclaimed judicial division". *

Power to make probation order.

3. (1) Where any person is convicted by any court of any offence committed in a proclaimed judicial division and punishable by that court, and it appears to

* Made applicable in the case of persons convicted of offences committed in the judicial divisions of—

Colombo, Kandy, Galle, and Kalutara—Gazette 9378/9-3-1945;
Kegalla, Jaffna, Negombo, and

Dumbara —Gazette 9661/31-1-1947;

Panadure —Gazette 9737/18-7-1947;

Gampola, Point Pedro, and Chava-

kachcheri —Gazette 9820/23-1-1948;

Gampaha —Gazette 9853/16-4-1948;

Balapitiya, Batticaloa, Chilaw,

Puttalam, Kurunegala, Matara,

Ratnapura, and Avissawella . . . —Gazette 10119/7-7-1950;

Mannar, Tangalla, Trincomalee,

Anuradhapura, Nuwara-Eliya,

Badulla, Matale, Kayts, Mullait-

tivu, and Hambantota . . . —Gazette 10310/19-10-1951.

the court, having regard to all the circumstances of the case, including the nature of the offence and the age, sex and condition of the offender, that it is expedient that the offender should be released on probation, the court may, subject to the provisions of section 4, make a probation order in respect of the offender in lieu of sentencing him to any other punishment which the court may have power to impose :

Provided that, where the offender is a child or young person within the meaning of the Children and Young Persons Ordinance, the preceding provisions of this subsection shall not affect the power of the court to make an order under section 28 (1) or 29 (1) of that Ordinance.

(2) The court which makes a probation order shall cause a certified copy of the order to be transmitted to the Commissioner, and cause certified copies of the order to be delivered respectively to the offender and to the probation officer named in the order.

4. (1) A court, before making a probation order in respect of any offender, shall—

Circumstances in which probation order may be made.

(a) consider all such information relating to the character, antecedents, environment and mental or physical condition of the offender as may, at the instance of the court, be furnished orally or in writing by a probation officer of the probation unit for the judicial division in which the offence was committed ;

(b) call for through such probation officer, and consider, a report from the Commissioner as to the suitability of the case for supervision under probation and as to the question whether the supervision of the offender can be undertaken by the probation officers of the division, having regard to the number of offenders for the time being under the supervision of such officers.

(2) No probation order shall be made by a court unless—

(a) the court has in simple language communicated to the offender the effect of the proposed order and of the conditions to be included therein,

and explained that, if he fails to observe any such condition or commits another offence, he will be liable to be sentenced for the original offence ; and

- (b) the offender has given his written consent to the making of the order and agreed to observe the conditions thereof.

(3) For the purpose of enabling any information or report to be furnished under subsection (1) in respect of any offender, the court may postpone the determination of the case for any period not exceeding twenty-eight days, and may make order remanding the offender during such period to custody in the nearest prison established under the Prisons Ordinance or in such other place as may be appointed in that behalf by the Minister of Justice¹ and notified in the Gazette.

Where the offender is in any such case released on bail, it shall be a condition of the bail bond that the offender shall report in person to a probation officer named in the bond within twenty-four hours of the release and at such other times as such officer may require.

(4) The report required under paragraph (b) of subsection (1) may be furnished by the Commissioner or by any other officer authorized by him to act on his behalf.

(5) The court may, in any case where written representations are made by a probation officer under paragraph (a) of subsection (1) in respect of any offender, direct that a copy of such representations be furnished to the offender, and hear any such evidence as may be tendered by the offender or the probation officer in relation to any matter referred to in such representations.

Conditions in probation order.

5. (1) Every probation order shall contain conditions requiring that the offender—

- (a) shall, within twenty-four hours of the making of the order, present himself before the probation officer appointed to undertake the supervision of the offender, at such place as may be specified in the order ;

- (b) shall present himself before such probation officer at such place and at such times (not being less than once in each month) as may from time to time be specified by that officer, or shall, if required so to do by that officer in relation to any particular occasion, make a report in writing to that officer in lieu of presenting himself before him on that occasion ;
- (c) shall reside at premises approved in writing by such probation officer, and shall not sleep at any other premises except with the prior written approval of that officer ;
- (d) shall not change his place of residence or his employment, if any, except with the prior written approval of such probation officer ;
- (e) shall not undertake any regular employment except with the prior written approval of such probation officer ;
- (f) shall not associate with any such person or with persons of any such class, as such probation officer may specify in writing in that behalf ;
- (g) shall obey all such orders or directions as may be issued to him by such probation officer for the purpose of securing the good conduct and welfare of the offender.

(2) Without prejudice to the provisions of subsection (1), the court may insert in any probation order such conditions as the court may consider necessary, including a condition that the offender shall reside, during a specified period, in a household, home or institution approved by the Commissioner for the purpose. The period so specified shall not exceed six months, except in a case where the court considers residence for a longer period to be necessary for the purposes of the employment of the offender or of enabling the offender to seek employment.

6. The court which makes a probation order in respect of any offender may require the offender to enter into a recognizance, with or without sureties, to observe the conditions of the order and to appear before the court whenever required so to do under the provisions of this Ordinance.

Power of court to require recognizance by offender.

Payment of
costs or
damages and
compensation.

7. (1) The court making a probation order may in addition, either as a condition of the order or otherwise, order the offender to pay, within such time or in such instalments as the court may direct, such damages for injury or compensation for loss (not exceeding in the case of a Magistrate's Court one hundred and fifty rupees, or if a higher limit is fixed by any written law relating to the offence that higher limit), and to pay such costs of the proceedings, as the court thinks reasonable :

Provided that the court may, on application made by the offender or a probation officer, extend for such period as it may think fit the time allowed for the payment of any moneys due from the offender or vary the instalments specified under the preceding provisions of this subsection.

(2) If it is proved to the satisfaction of the court that the offender has not attained the age of sixteen years and that a parent or guardian of the offender has, by neglect or otherwise, conduced to the commission of the offence, the court may order payment by the parent or guardian of any damages and costs referred to in subsection (1).

(3) Where an order has been made under subsection (1) requiring the payment of any moneys by any offender the operation of such order shall not be affected by the expiration, before such moneys are paid, of the probation order made in respect of that offender ; and such moneys shall be payable by, and may be recovered from, the offender, notwithstanding the expiration of the probation order.

(4) All moneys payable by virtue of any order made under this section shall be recoverable in like manner as a fine imposed by the court.

Duration of
probation
order.

8. Subject to the provisions of sections 9, 10 and 12, a probation order shall be in force for such period as may be specified by the court in the order, not being less than one year or more than three years from the date on which the order is made.

9. Where any probation order has been expressed to be in force for any period less than three years, the court by which the order was made may, if it considers it expedient so to do, whether on application made to the court for the purpose by the Commissioner or a probation officer or otherwise, summon the offender and his surety or sureties, if any, and extend the period specified in the order, so, however, that the duration of the order shall not in any case be extended beyond a period of three years from the date on which the order was made.

Extension of period of probation.

10. (1) Upon written application made for the purpose by the offender or by or on behalf of the Commissioner, and after consideration of such representations as may be made by the offender and by or on behalf of the Commissioner, the court by which a probation order was made or the Magistrate's Court having jurisdiction in the place where the offender resides—

Modification or cancellation of probation order.
[§ 2, 21 of 1947.]

(a) may, at any time while such probation order is in force, make an order amending the probation order by the deletion or modification of any condition specified in that order or by the insertion of a new condition therein; and

(b) may, after the expiry of a period which is not less than one half of the period for which the probation order is expressed to be in force, make an order cancelling such probation order or reducing the period of the duration of such order.

(2) A certified copy of any order made by the court under subsection (1) in relation to any probation order shall be transmitted to the probation officer for delivery to the offender, and where given otherwise than by the court by which the probation order had originally been made, to that court for the purpose of being filed of record in the proceedings of the case.

(3) Where an order is made under subsection (1) cancelling any probation order or reducing the period of the duration of any such order, the probation order shall cease to be in force on the date specified in that behalf in the order of cancellation or reduction.

Sinhalese
and Tamil
translations
of orders to
be provided
to offenders.
[§ 3, 21 of 1947.]

11. The court which makes a probation order or an order under section 10 (1), in respect of any offender, shall inquire from such offender whether he desires to have a translation of such order in the Sinhalese language or in the Tamil language ; and if on inquiry so made, the offender states that he desires to have such a translation, the court shall cause such a translation prepared by a sworn translator or interpreter of the court, to be delivered to such offender.

Provision for
cases where
probation
order is not
complied
with.

12. (1) If the court by which a probation order was made, or the Magistrate's Court having jurisdiction in the place in which the offender resides, is satisfied, by information on oath or on the written report of the Commissioner or of a probation officer, that the offender has been convicted of any offence committed while the order was in force or has failed to observe any condition inserted in the order, the court may issue a warrant for the arrest of the offender, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons on him and his surety or sureties, if any, requiring him or them to attend before the court at such time as may be specified in the summons.

(2) Where a warrant has been issued in the first instance under subsection (1) for the arrest of an offender, he shall when arrested, if not brought forthwith before the court by which the warrant was issued, be brought before any Magistrate's Court.

(3) The court before which any offender is so brought on arrest or before which he appears in pursuance of such summons as aforesaid may, if it is not the court by which the warrant or summons was issued, remand him to custody or release him on bail until he can be brought before such court.

(4) Any offender so remanded to custody may be committed during remand to any prison to which the court before which he is to be brought has power to commit prisoners. If the offender is a person who has not attained the age of sixteen years he shall, if remanded, be dealt with wherever practicable in accordance with the provisions of section 15 (1) of the Children and Young Persons Ordinance.

(5) If it is proved to the satisfaction of the court by which a probation order was made, or of the Magistrate's Court having jurisdiction in the place in which the offender resides, that the offender has been convicted of any offence committed while the order was in force, the court may, subject to the provisions of subsection (7), cancel the probation order and pass or make any such sentence or order which it could pass or make under any other written law if the offender had just been convicted before that court of the original offence upon his conviction of which the probation order was made.

(6) If it is proved to the satisfaction of the court by which a probation order was made, or of the Magistrate's Court having jurisdiction in the place in which the offender resides, that the offender has failed to observe any condition of the order, the court may, subject to the provisions of subsection (7)—

(a) without prejudice to the continuance in force of the probation order, impose on the offender a fine not exceeding one hundred and fifty rupees ; or

(b) cancel the probation order and pass or make any such sentence or order which it could pass or make under any other written law if the offender had just been convicted before that court of the original offence upon his conviction of which the probation order was made.

(7) The powers conferred by subsection (5) or subsection (6) on the Magistrate's Court having jurisdiction in the place in which the offender resides shall not be exercised by that court unless—

(a) the probation order in respect of that offender had originally been made by that Magistrate's Court ; or

(b) the court by which the probation order had originally been made, by writing under the hand of any Judge or Magistrate thereof, consents to the exercise of such powers by that Magistrate's Court.

(8) In any case where any sentence or order is passed or made in respect of any offender under subsection (5) or subsection (6), the court may, instead of condemning his surety or sureties, if any, to pay the sums for which they are respectively bound, condemn him or them or any of them to pay a part only of such sums or discharge him or them or any of them from the liability to make any such payment.

Appeals.

13. Any person in respect of whom a probation order is made upon his conviction of any offence by a District Court or a Magistrate's Court, may, if he appeals against the conviction, appeal to the Supreme Court against the order ; and the provisions of Chapter XXX of the Criminal Procedure Code shall apply in the case of any such appeal.

Probation order :
disqualifi-
cation or
disability.

14. Where a probation order is made in respect of any person upon his conviction of any offence, such conviction shall be disregarded for the purposes of any written law by or under which any disqualification or disability is imposed upon convicted persons, or by or under which provision is made for a different punishment in respect of a second or subsequent offence or in respect of an offence committed after previous conviction :

Provided that if the offender is subsequently sentenced for the original offence, the preceding provisions of this section shall cease to apply in respect of that offence, and he shall be deemed, for the purposes of any such written law imposing a disqualification or disability, to have been convicted on the date of sentence.

Functions of
Commissioner
and Deputy
Commis-
sioner.

15. (1) The Commissioner shall be in charge of the probation service and shall, subject to the general direction and control of the Minister,¹ be responsible for the general administration and management of that service.

(2) Any power, duty or function conferred or imposed upon or assigned to the Commissioner by any of the provisions of this Ordinance or by any rule made thereunder may, unless the Commissioner otherwise directs, be exercised, performed or discharged by the Deputy Commissioner.

[§ 5, 10 of 1948.]

16. (1) The Minister¹ may establish for the purposes of this Ordinance an advisory board, to be known as the "Central Probation Board", consisting of the Commissioner as chairman and of not more than seven other persons appointed by the Minister.¹

Central
Probation
Board.

(2) Of the persons appointed to be members of the Central Probation Board, four at least must be persons who do not hold any office of emolument under the Crown.

(3) The Deputy Commissioner shall be the secretary of the Board.

[§ 5, 10 of 1948.]

17. (1) The probation service for the purposes of this Ordinance shall consist of—

Appointment
of probation
officers.

(a) such number of salaried probation officers of either sex, appointed in accordance with the Public Service Commission Rules for the time being in force, as the Minister with the concurrence of the Minister of Finance¹ may from time to time determine ; and

(b) such unsalaried probation officers of either sex as may from time to time be appointed by the Minister.¹

(2) The appointment of any unsalaried probation officer may at any time be terminated by the Minister.¹

18. (1) There shall be, for each proclaimed judicial division, a probation unit consisting of at least one salaried probation officer, and of such other probation officers, whether salaried or unsalaried, as may be necessary for the purposes of this Ordinance :

Probation
units, &c.

Provided that one probation unit may, if the Minister considers it expedient, be established for two or more proclaimed judicial divisions.

(2) The Commissioner may transfer any salaried probation officer from any probation unit to any other probation unit.

(3) Upon the appointment of any probation officer to any probation unit or the transfer of any such officer to or from any such unit or the termination of the

appointment of any probation officer appointed to any such unit, the Commissioner shall cause notice of such appointment, transfer or termination to be published in the Gazette, and to be given to the Fiscal of the province and to every court having jurisdiction in the division for which the probation unit is established.

(4) The probation officer appointed by the court to undertake the supervision of an offender who is convicted of any offence shall, unless the court in the special circumstances of the case otherwise directs, be an officer appointed to the probation unit of the judicial division in which the offence was committed :

Provided, however, that the Commissioner may, if he considers it expedient or necessary so to do, direct any other probation officer, whether appointed to the same probation unit or not, to undertake the supervision of the offender in respect of whom the order was made.

(5) Where the Commissioner has, under the proviso to subsection (4), directed any probation officer, other than the officer appointed by the probation order, to undertake the supervision of the offender, the Commissioner shall cause notice of such directions to be given to the offender and to the court by which the order was made ; and in any such case the officer so directed by the Commissioner shall, for the purposes of this Ordinance, be deemed to be the probation officer appointed by the order.

(6) The Commissioner shall, where practicable, make such arrangements as may be necessary to secure that the supervision of any female offender is undertaken by a female probation officer.

Duties of
probation
officers, &c.

19. (1) It shall be the duty of every probation officer to undertake such preliminary investigations, as he may from time to time be required by general or special directions of the Commissioner to undertake, for the purpose of furnishing information to any court under section 4 in relation to any offender and of enabling reports to be made to any court under that section.

(2) It shall be the duty of the probation officer who is or is deemed to be appointed by any probation order made in respect of any offender—

- (a) to undertake the supervision of the offender and to see that the conditions inserted in the order are fully and strictly observed ;
- (b) to visit or receive reports from the offender at such intervals as may be specified in the order, or, subject thereto, as the officer may think fit ;
- (c) to make such periodical reports to the Commissioner as the Commissioner may require relating to the behaviour and progress of the offender ;
- (d) to advise, assist and befriend the offender under his supervision, and where necessary, to endeavour to secure employment and lodging accommodation for him.

(3) Every probation officer shall perform all such duties as may be imposed on him by special or general directions given by the Commissioner in that behalf, or as may be prescribed by rules made under this Ordinance or by any other written law.

(4) Every probation officer shall, in the performance or discharge of the functions or duties assigned to or imposed on him by or under this Ordinance or any other written law, be subject to the general direction and control of the Commissioner.

20. All expenses incurred in the administration of this Ordinance shall be paid out of the Consolidated Fund ¹ from moneys provided by Parliament ¹ for the purpose. Expenses.

21. (1) The Minister ¹ may make rules for all matters connected with or incidental to the supervision of offenders in respect of whom probation orders are made under this Ordinance, and to the discharge and performance of the functions and duties conferred or imposed upon the Commissioner and upon probation officers by this Ordinance. Rules.

(2) Without prejudice to the generality of the powers conferred by subsection (1), any rules made under that subsection may prescribe—

- (a) the allowances to be paid to unsalaried probation officers in respect of expenses incurred by them in the discharge or performance of their functions or duties under this Ordinance, and the rates, if any, according to which such allowances shall be paid ;
- (b) the rates of payment to be made for the maintenance of offenders in respect of whom probation orders are made ;
- (c) the records and registers to be maintained for the purposes of this Ordinance and the inspection of such records or registers ; and
- (d) the functions and duties of the Central Probation Board.

(3) No rule made by the Minister¹ under this section shall have effect until it has been approved by the Senate and the House of Representatives,¹ nor until notification of such approval has been published in the Gazette.

Interpretation.

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

[§ 5, 10 of 1948.]

“ Commissioner ” means the person for the time being appointed to be or to act as Commissioner of Prison and Probation Services ; and “ Deputy Commissioner ” has a corresponding meaning ;

“ court ” includes the court of a Municipal Magistrate, and any Magistrate’s Court sitting as a Juvenile Court ;

“ judicial division ” has the same meaning as in the Courts Ordinance ;

“ prescribed ” means prescribed by rules made by the Minister¹ under this Ordinance ;

“ probation officer ” means any probation officer, whether salaried or unsalaried, appointed under this Ordinance ;

“ probation order ” means an order made under section 3 of this Ordinance.

CHAPTER 25

YOUTHFUL OFFENDERS (TRAINING
SCHOOLS)

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISH-
MENT OF TRAINING SCHOOLS, FOR THE DETENTION,
TRAINING AND REFORMATION OF YOUTHFUL
OFFENDERS, AND FOR PURPOSES CONNECTED THEREWITH.

Ordinances

Nos. 28 of 1939,
8 of 1943,
41 of 1944,
42 of 1944.

[22nd January, 1940.]

1. This Ordinance may be cited as the Youthful
Offenders (Training Schools) Ordinance.

Short title.

2. (1) The Minister¹ may by Order¹ published in
the Gazette establish one or more training schools in
which youthful offenders may be detained and be given
such training and instruction and be subjected to such
discipline and moral influences as will conduce to their
reformation and to the repression of crime.

Establish-
ment of
training
schools.

(2) Every training school shall be under the general
control and superintendence of the Commissioner.

3. (1) There may be appointed³ for every training
school a superintendent, who shall, subject to the
general direction and control of the Commissioner, be
responsible for the management of the school in
accordance with the provisions of this Ordinance and
of any regulations made thereunder.

Appoint-
ment of
officers, &c.

(2) There may be appointed³ such other officers and
servants as may be necessary for the purposes of this
Ordinance.

4. (1) Where any male person—

(a) is convicted by any court of any offence which
according to the First Schedule to the Criminal
Procedure Code, is triable only by the Supreme
Court or by a District Court ; or

Orders for
detention in
training
schools.

[§ 22, 42 of 1944.]

(b) is convicted by any court of any offence, and a previous conviction of any offence is proved against him ; or

(c) is found by any court to have failed to observe any condition of any probation order made under the provisions of any other written law relating to the release of offenders on probation,

and it appears to the court—

(i) that the person is a youthful person ; and

(ii) that by reason of his criminal habits or tendencies or association with persons of bad character, it is expedient that he should be subject to detention under such instruction, training and discipline as would be available in a training school,

the court may, in lieu of making any order which it is empowered to make under the provisions of any other written law, and subject to the provisions of subsection (2), order him to be detained in a training school for a period of three years.

(2) (a) A court, before making an order under subsection (1) shall call for and consider a report from the Commissioner as to the suitability of the case for treatment in a training school and as to the accommodation available in any such school, and shall be satisfied that the character, state of health and mental and physical condition of the offender and the other circumstances of the case are such that the offender is likely to profit by detention in a training school.

(b) The report required under paragraph (a) may be furnished by the Commissioner or by any person authorized by him.

(3) For the purpose of enabling a report under subsection (2) to be furnished in respect of any offender, a court may make order remanding him, for a period of not less than fourteen and not more than twenty-one days, to custody in such one of the prisons specified in the First Schedule as is nearest to the court.

5. (1) Where a male person who is convicted of any offence is, at the time of his conviction, detained in an approved or certified school under the provisions of any written law (otherwise than as being a person in need of care or protection), and it appears to the court that he is a youthful person, the court may order him to be detained in a training school for a period of three years.

Orders in respect of persons detained in approved or certified schools.

(2) Any order made under subsection (1) for the detention of any person in a training school shall supersede the order for the detention of that person in an approved or certified school.

6. Where a court makes an order under section 4 or section 5 for the detention of a person in a training school, a warrant of commitment, which shall be substantially in the form set out in the Second Schedule, shall be signed by the court and shall be delivered to the Fiscal of the province in which the court is situated.

Warrant of commitment to training school.

7. Every order made under section 4 or section 5, by a District Court or a Magistrate's Court, for the detention of a person in a Training School, shall be deemed to be a judgment or final order pronounced by that court in a criminal case or matter within the meaning of section 338 of the Criminal Procedure Code; and the provisions of Chapter XXX of that Code shall apply accordingly.

Application of Chapter XXX of Criminal Procedure Code to orders for detention.

8. Where the Minister¹ is satisfied that a youthful person, who is undergoing imprisonment in consequence of a sentence passed before or after the date of the commencement of this Ordinance and who has still to undergo imprisonment for a further period of not less than two years, might with advantage be detained in a training school, the Minister¹ may by order authorize the Commissioner to transfer him from prison to a training school and to detain him in such school there to serve the whole or any part of the unexpired residue of his sentence, and whilst detained in, or placed out on licence from, such a school, the

Transfer of person from prison to training school.

provisions of this Ordinance shall apply to him as if he had been originally ordered to be detained in a training school.

Release on
licence of
persons
detained in
training
schools.

9. (1) The Minister¹ may, at any time after the expiration of one year from the commencement of any term of detention, if satisfied that there is a reasonable probability that the person detained will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from a training school on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(2) A licence granted to any person under this section shall, subject to the provisions of subsections (3) and (4), be in force until the term for which that person was ordered to be detained has expired.

(3) The Minister¹ may at any time revoke a licence granted to any person under this section, and upon such revocation it shall be the duty of that person to return to the training school and if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

(4) Where any person to whom a licence has been granted under this section escapes from or evades the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, that licence shall be forfeited.

(5) The Magistrate's Court of the division in which the training school from which a person has been placed out on licence is situated or in which such a person is found may, on information on oath that the licence has been forfeited under subsection (4) issue a warrant for his arrest, and he shall on arrest be brought before that court, and that court may, if satisfied that the licence has been forfeited, order him to be remitted to a training school and remand him to the custody of the Fiscal of the province to be detained in the nearest prison until he can conveniently be removed to such school.

(6) The time during which a person is absent from a training school under a licence granted under this section shall be treated as part of the term of his detention in the school :

Provided, however, that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time of his detention in the school.

(7) A licence granted under this section shall be in such form and shall contain such conditions as may be prescribed by regulations.

10. (1) Every person ordered to be detained in a training school shall, on the expiration of the period for which he was ordered to be detained, remain for a further period of one year under the supervision of the Minister.¹

Supervision
after term
of detention
in training
schools.

(2) The Minister¹ may by licence discharge from his supervision any person who is under such supervision in accordance with subsection (1), on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(3) The Minister¹ may revoke a licence granted to any person under subsection (2) and by order in the prescribed form recall him to a training school, if he is¹ of opinion that such recall is necessary for the protection and further training of such person, and may detain him in a training school for a further period not exceeding six months :

Provided, however, that—

- (a) every person so recalled shall again be discharged by licence under subsection (2), so soon as the Minister¹ considers such discharge to be expedient ; and
- (b) no person so recalled shall be detained in a training school after the expiration of the period of one year specified in subsection (1).

(4) A licence granted to any person under section 9 before the expiration of his term of detention in a training school shall, on his becoming liable to be under the supervision of the Minister¹ in accordance with subsection (1), continue in force after the date of the expiration of that term, and every such licence shall after that date be deemed to be a licence granted under subsection (2), and the provisions of subsection (3) shall apply accordingly.

(5) The Minister¹ may at any time order that a person under supervision under this section shall cease to be under such supervision.

[§ 2, 8 of 1943.]

(6) It shall be the duty of a person who has been recalled to a training school by an order under subsection (3) to return to the school, and, if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

Substitution of imprisonment for detention in training school.

11. Where a person detained in a training school is reported to the Minister¹ by the Commissioner to be incorrigible, or to be exercising a bad influence on other inmates of the school, the Minister of Justice may, in consultation with the Minister,³ commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Minister of Justice³ may determine, but in no case exceeding such unexpired residue.

Payments to societies and persons assisting or supervising persons discharged from training schools.

12. Where any society or person has undertaken the duty of assisting or supervising persons discharged from a training school either absolutely or on licence, there may be paid to the society or person, as the case may be, out of funds voted by Parliament¹ for the purpose, such sums on such conditions as the Minister¹ may determine towards the expenses of the society or person incurred in connection with the persons so discharged.

Removal from one training school to another.

13. Where a person has been ordered to be detained in any training school, the Commissioner may direct that person to be removed to and detained in any other training school.

14. (1) The Minister¹ may make regulations for the purpose of carrying out the principles and provisions of this Ordinance.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister¹ may make regulations for or in respect of all or any of the following matters :—

- (a) the rule and management of training schools ;
- (b) the medical examination and the taking of measurements, photographs, fingerprints, footprints or other records, of persons ordered to be detained in training schools, including particulars of the previous history of such persons ;
- (c) the persons, if any, to whom such measurements, photographs, fingerprints, footprints or other records may be sent or supplied ;
- (d) the disposal of the clothing and property of persons ordered to be detained in training schools ;
- (e) the classification, treatment, clothing, training, instruction, employment, discipline and control of persons detained in training schools, and the classes of diet to be provided for such persons ;
- (f) the religious instruction of persons detained in training schools ;
- (g) the kind of labour to be exacted from persons detained in training schools, and the manner in which and the times at which such labour may be exacted ;
- (h) rewards for good conduct, including the circumstances in which payments may be made to persons detained in training schools ;
- (i) the circumstances in which and the conditions subject to which persons detained in training schools may be permitted to be absent therefrom for short periods, and the removal of such persons to hospitals or mental or leprosy hospitals in cases of sickness, insanity or suspected insanity ;

- (j) visits to persons detained in training schools and correspondence or other communication with such persons ;
- (k) the specifications and requirements of the several types of cells or wards in training schools ;
- (l) the sanitation of training schools ; the health and medical treatment of the persons detained or employed therein, and the functions and duties of medical officers ;
- (m) inspections, inquiries and other proceedings by Visitors ;
- (n) means of restraint, the patterns or types that may be used and the circumstances and the manner in which they may be used ;
- (o) the compulsory or artificial feeding of persons detained in training schools ;
- (p) the manner in which any person who is detained in a training school may, if he is an appellant within the meaning of the Court of Criminal Appeal Ordinance, or appeals to the Supreme Court, be brought to any place at which he is entitled to be present for the purposes of his appeal or to which the Court of Criminal Appeal or the Supreme Court or any Judge thereof may order him to be taken for the purpose of the appeal, and the manner in which he is to be kept in custody while absent from the training school for the purpose ;
- (q) the custody, pending inquiry or trial, of youthful persons accused of any offence, and the custody of persons remanded under section 4 (3) ;
- (r) the temporary custody of persons ordered to be detained in training schools, until arrangements can be made for their removal thereto ;
- (s) the supply of money, food, clothing or means of travelling to persons discharged from training schools on licence or otherwise ;

(t) the adaptation, modification or alteration, in such manner as may be necessary for the purpose of its application to training schools, the officers and servants employed therein and the persons detained therein, of any provision of the Prisons Ordinance which is mentioned in the Third Schedule ;

(u) all matters stated or required by this Ordinance to be prescribed or in respect of which regulations are authorized to be made under this Ordinance.

(3) Every regulation made by the Minister¹ shall be brought before the Senate and the House of Representatives¹ by a motion that such regulation shall be approved. No regulation made by the Minister¹ shall have effect until it has been approved by the Senate and the House of Representatives.¹ Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister¹ when approved by the Senate and the House of Representatives¹ shall upon the notification of such approval in the Gazette be as valid and effectual as if it were herein enacted.

15.(1) (a) The provisions of the Prisons Ordinance which are mentioned in the Third Schedule shall apply to training schools, the officers and servants employed therein and the persons detained therein in like manner as if such schools were prisons established under that Ordinance and as if the persons detained therein were criminal prisoners within the meaning of that Ordinance :

Application
of Prisons
Ordinance
and other
written
law.

Provided, however, that any such provision may be adapted, modified or altered by regulation in such manner as may be necessary for the purposes of such application, and shall accordingly have effect for such purposes as adapted, modified or altered, and as set out in such regulation.

(b) The provisions of the Third Schedule may be added to or otherwise amended by regulation.

(2) Save as provided in subsection (1), the Prisons Ordinance and the rules made thereunder shall have no application to training schools, the officers and servants employed therein and the persons detained therein ; but the provisions of any other written law relating to prisons and prisoners, in so far as such provisions are not inconsistent with any provision of this Ordinance or of any regulation, shall apply in the case of such schools, officers, servants and persons in like manner as if such schools were prisons established under the Prisons Ordinance and as if the persons detained therein were criminal prisoners within the meaning of that Ordinance.

Interpretation.

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

[§ 4, 41 of 1944.]

“ Commissioner ” means the Commissioner of Prison and Probation Services ;

“ court ” includes the court of a Municipal Magistrate ;

“ peace officer ” has the same meaning as in the Criminal Procedure Code ;

“ prescribed ” means prescribed by regulation ;

“ prison ” means a prison established under the Prisons Ordinance ;

“ prison officer ” means any officer of the staff of any prison or of any training school ;

“ regulation ” means a regulation made by the Minister¹ under this Ordinance ;

“ training school ” means a training school for youthful offenders established by the Minister¹ under section 2 ;

“ youthful person ” means a person who has attained the age of sixteen years and who has not attained the age of 22 years ; and “ youthful offender ” has a corresponding meaning.

FIRST SCHEDULE

[Section 4 (3).]

PRISONS TO WHICH PERSONS MAY BE REMANDED UNDER SECTION 4 (3)

1. Welikada Prison, Colombo.
2. Bogambara Prison, Kandy.
3. Jaffna Prison.

SECOND SCHEDULE

[Section 6.]

FORM OF WARRANT OF COMMITMENT TO A TRAINING SCHOOL

In the Supreme Court of the Island of Ceylon.

(or In the District Court of ———).

(or In the Magistrate's Court of ———).

Case No. ———.

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

WHEREAS¹ ——— was on the ——— day of ———, 19—, convicted before the above-named court for that he did on the ——— day of ———, 19—, at ———, within the jurisdiction of this court² ——— and thereby committed an offence punishable under³ ——— and was ordered to be detained in the Training School at ——— for a period of three years :

These are therefore to command you, the said Fiscal, to take the said¹ ——— and him safely to convey to the Training School at ——— aforesaid and there to deliver him to the Superintendent thereof together with a copy of this warrant certified under your hand.

And I do hereby command you the Superintendent of the said Training School to receive the said¹ ——— into your custody in the said Training School and there carry out the aforesaid order of detention into execution.

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

(Signed) ———,
Judge of the Supreme Court
(or District Judge or
Magistrate).

¹ Name in full of accused.

² State particulars of offence.

³ Specify provision of Penal Code or of other law.

THIRD SCHEDULE

[Section 15.]

PROVISIONS OF THE PRISONS ORDINANCE WHICH ARE MADE
APPLICABLE TO TRAINING SCHOOLS

Sections 3, 5, 6 (3), 13, 20, 23, 35, 36, 37, 38, 39, 40, 41, 44, 69, 73, 74, 75, 76, 78, 79, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 95, 96, 103, and 104.

CHAPTER 26

BRIBERY

Acts

Nos. 11 of 1954,
17 of 1956.

AN ACT TO PROVIDE FOR THE PREVENTION AND PUNISHMENT
OF BRIBERY AND TO MAKE CONSEQUENTIAL PROVISIONS
RELATING TO THE OPERATION OF OTHER WRITTEN LAW.

[1st March, 1954.]

Short title.

1. This Act may be cited as the Bribery Act.

Effect of
this Act on
operation
of other
written law.

2. (1) Every provision of this Act which may be in conflict or inconsistent with anything in the Ceylon (Constitution) Order in Council, 1946, shall for all purposes and in all respects be as valid and effectual as though that provision were in an Act for the amendment of that Order in Council enacted by Parliament after compliance with the requirement imposed by the proviso of subsection (4) of section 29 of that Order in Council.

(2) Where the provisions of this Act are in conflict or are inconsistent with any other written law, this Act shall prevail.

PART I

INVESTIGATION OF ALLEGATIONS OF, AND PROSECUTION OR ARRAIGNMENT FOR, BRIBERY

Allegations
of bribery
to be investi-
gated by
Attorney-
General or
authorized
officer.

3. (1) The Attorney-General, or any officer authorized in that behalf by and acting under the control of the Attorney-General, is hereby empowered to direct and conduct the investigation of all allegations of bribery notwithstanding anything in any other written law to the contrary :

Provided, however, that the Attorney-General shall not, without the consent of the President of the Senate or the Speaker of the House of Representatives, as the case may be, hold an investigation of an allegation of bribery against a Senator or a Member of Parliament ;

Provided, further, that the Attorney-General shall not, without the consent of the Judicial Service Commission, hold an investigation of an allegation of bribery against a judicial officer.

(2) The Attorney-General may also in any case in which he deems it expedient require a Magistrate, upon warrant under section 148 (1) (e) of the Criminal Procedure Code, to hold an inquiry in respect of any allegation of bribery. The provisions of Chapter XVI of that Code shall apply to such inquiry, except that at the conclusion of the inquiry the Magistrate shall, in lieu of discharging or committing for trial the person charged, transmit the record of the inquiry to the Attorney-General.

(3) The Attorney-General may after receipt of the record from the Magistrate require the Magistrate to record such further evidence as the Attorney-General may consider necessary.

(4) The Attorney-General, or any officer authorized by the Attorney-General under subsection (1), may, in making an investigation under this section, direct in writing any person who appears to be acquainted with any facts relevant to the matters under investigation—

- (a) to appear before the Attorney-General or that officer, as the case may be, and to answer orally on oath or affirmation any questions relevant to such matters ;
- (b) to state such facts by means of an affidavit ; and
- (c) to produce any such document in his possession or under his control as may be relevant to such matters.

4. (1) In the course of an investigation of an allegation of bribery against any person or after the commencement of a prosecution or an arraignment of any person for bribery, the Attorney-General may, notwithstanding anything in any other written law to the contrary, by written notice—

Power to obtain information and assistance.

- (a) require such person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or

possessed by such person and by the spouse, sons and daughters of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise ;

- (b) require any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the Attorney-General has reasonable grounds to believe that such information can assist the investigation ;
- (c) require the manager of any bank in Ceylon to produce, as specified in the notice, any book or document of the bank containing entries relating to the account of such person or of the spouse or a son or daughter of such person, or to furnish, as so specified, certified copies of such entries ;
- (d) require the Commissioner of Income Tax to furnish, as specified in the notice, all information available to such Commissioner relating to the affairs of such person or of the spouse or a son or daughter of such person, and to produce or furnish, as specified in the notice, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of such Commissioner ; and
- (e) require the person in charge of any department, office or establishment of the Government, or the Mayor, Chairman, Governor, or chief executive officer of any local authority or scheduled institution, or of the governing body of any scheduled institution, to produce or furnish, as specified in the notice, any document or a certified copy of any document which is in his possession or under his control.

(2) The Attorney-General shall treat all information obtained by him under subsection (1) with the strictest secrecy and shall not divulge such information to any person other than a court, a commission or

inquiry, a board of inquiry, an accused person, any advocate, proctor or other person defending an accused person, or an officer engaged in an investigation under this Act or in any prosecution or arraignment for bribery.

(3) In the course of an investigation of an allegation of bribery the Attorney-General or any officer authorized by the Attorney-General to conduct the investigation may, with such assistance as may be necessary, enter and search any department, office or establishment of the Government.

(4) The Attorney-General, or any officer authorized by the Attorney-General to direct and conduct an investigation, may apply to any public servant or any other person for assistance in the exercise of his powers or the discharge of his duties under this Act.

5. If the Attorney-General is satisfied that there is a prima facie case of bribery, he may—

What Attorney-General may do when there is prima facie case of bribery.

(a) where the offender is not a public servant, indict the offender before the Supreme Court or the District Court as the Attorney-General may determine; and

(b) where the offender is a public servant, either indict the offender as provided in the preceding paragraph (a) or arraign the offender before a board of inquiry after informing the Public Service Commission.

6. (1) Such of the provisions of the Criminal Procedure Code as are not excluded by subsection (2) or are not inconsistent with the provisions of this Act shall apply to proceedings in any court for bribery.

Application of the Criminal Procedure Code.

(2) Section 325 of the Criminal Procedure Code shall not apply to the proceedings referred to in subsection (1).

7. In the course of an investigation of an allegation of bribery, the Attorney-General or any officer authorized in that behalf by the Attorney-General may make to such Magistrate in his chambers as the Attorney-General may determine an application for,

Search warrants.

and such Magistrate may upon such application issue, a search warrant authorizing the person or persons specified in that behalf in such application to enter and search, with such assistance as may be required, any place, premises, building or house so specified and to take possession of and remove any book, document or thing relevant to the matters to which such investigation relates ; and the provisions of sections 20, 25, 26, 74, 75 and 76 of the Criminal Procedure Code shall apply to search warrants issued under this section, and, notwithstanding anything to the contrary in that Code, it shall not be necessary to take any book, document or thing seized under a search warrant issued under this section before the Magistrate who issued that warrant or any other Magistrate.

Offenders to be indicted without preliminary inquiry.

8. Anything in the Criminal Procedure Code or any other enactment to the contrary notwithstanding, the Attorney-General may indict a person for bribery without a preliminary inquiry by a Magistrate's Court as provided in Chapter XVI of that Code.

Service of indictment on accused person, &c.

9. (1) An indictment prepared in the manner prescribed by section 186 of the Criminal Procedure Code shall be transmitted by the Attorney-General to the court of trial selected by him. He shall at the same time transmit to the Fiscal of the province in which the trial will take place a copy or copies of the indictment for service on the accused person or each of the accused persons who will be tried upon the indictment. The Fiscal shall forthwith and at least fourteen days before the day specified for trial serve or cause to be served on the accused person or each of the accused persons the copy or a copy of the indictment received by him from the Attorney-General and shall make return of such service to the court of trial and to the Attorney-General or any officer appointed by the Attorney-General to represent him.

(2) The court shall forthwith upon the receipt of the indictment cause to be served on the accused person a notice specifying the date fixed for his trial.

(3) Service on an accused person of any indictment or notice of trial shall be effected in the manner prescribed for the service of summons in sections 45 and

46 of the Criminal Procedure Code and the provisions of section 49 of that Code shall apply accordingly for the purpose of proving such service :

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

10. (1) Where the Attorney-General indicts before a court or arraigns before a board of inquiry any person for bribery, he shall cause to be furnished to that person—

What information to be furnished to the person charged.

- (a) if an inquiry directed under section 3 has been held by a Magistrate, a copy of the depositions recorded by the Magistrate at the inquiry ;
- (b) if, instead of an inquiry by a Magistrate, an investigation has been held by the Attorney-General or by an officer authorized by him, a summary of the facts elicited in the course thereof and proposed to be relied on at the trial in court or at the inquiry by the board ; and
- (c) in the case of arraignment before the board, a concise statement of the particulars of the charge and a list of witnesses who are likely to be called to give evidence and a list of documents that may be used at the inquiry.

(2) The Attorney-General shall, if so required by any court or board of inquiry trying or inquiring into a charge of bribery, furnish or cause to be furnished to the court or board any statement recorded in the course of the investigation referred to in paragraph (b) of subsection (1). No such statement shall be made available to the accused person or to any advocate, proctor or other person defending him unless the court or board, on application made to it in that behalf and after reference to the statement, is of opinion that in the circumstances of the case the furnishing of the statement is in the interests of justice.

(3) No statement referred to in subsection (2) shall be used in any proceedings before a court or board of inquiry otherwise than to prove that a witness made a different statement at a different time, or to refresh the memory of the person recording it :

Provided, however, that nothing in this subsection shall be deemed to apply to any statement falling within the provisions of paragraph (1) of section 32 of the Evidence Ordinance or to prevent such statement being used in evidence in a charge under section 180 of the Penal Code.

(4) The restrictions imposed by subsections (2) and (3) shall not apply to or in relation to any deposition recorded by a Magistrate in an inquiry directed under section 3.

Who may be
prosecutor
before a
board of
inquiry.

11. The case against a public servant who is arraigned before a board of inquiry shall be presented to the board by a Crown Counsel, or by any advocate, proctor or officer authorized in writing by the Attorney-General.

Manner of
service of
summons on
any person
issued in
proceedings
in court for
bribery.

12. In addition to the manner of service of summons on witnesses prescribed by the Criminal Procedure Code, summons on any person issued in proceedings in any court for bribery may be served in the following manner :—

- (a) by registered letter addressed and despatched by express post to the person to be summoned ; or
- (b) in the case of a public servant, by registered letter addressed and despatched by express post to the head of the department, office or establishment in which such public servant is employed ; or
- (c) in the case of any person who is employed under any other person, by registered letter addressed and despatched by express post to the employer ; or
- (d) through any village headman ; or
- (e) in urgent cases by telegram.

13. At the trial of a person indicted before any court for bribery, the court or the prosecutor may, notwithstanding anything to the contrary in any other written law, call any such witnesses, or use or produce any such document, as is not specified in the indictment.

Calling of witnesses and use and production of documents not specified in the indictment.

PART II

OFFENCES OF BRIBERY

14. A person—

- (a) who offers any gratification to a judicial officer, or to a member of either the Senate or the House of Representatives, as an inducement or a reward for such officer's or member's doing or forbearing to do any act in his judicial capacity or in his capacity as such member, or
- (b) who, being a judicial officer or a member of either the Senate or the House of Representatives, solicits or accepts any gratification as an inducement or a reward for his doing or forbearing to do any act in his judicial capacity or in his capacity as such member,

Bribery of judicial officers, Senators and Members of Parliament.

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both :

Provided, however, that it shall not be an offence under the preceding provisions of this section for any trade union or other organization to offer to a member of either the Senate or the House of Representatives, or for any such member to accept from any trade union or other organization, any allowance or other payment solely for the purposes of his maintenance.

[§ 2, 17 of 1956.]

15. A member of either the Senate or the House of Representatives who solicits or accepts any gratification as an inducement or a reward for—

- (a) his interviewing a public servant on behalf of any person, or

Acceptance of gratification by Senators and Members of Parliament for interviewing public servants.

- (b) his appearing on behalf of any person before a public servant exercising judicial or quasi-judicial functions,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both :

Provided, however, that it shall not be an offence under the preceding provisions of this section for a member of either the Senate or the House of Representatives to appear as an advocate or a proctor before a court or before a statutory tribunal of which a public servant is not a member.

Bribery of
police officers,
peace officers
and other
public
servants.

16. A person—

- (a) who offers any gratification to any police officer, peace officer, or other public servant, employed in any capacity for the prosecution, detection or punishment of offenders, or to an officer of a court, as an inducement or a reward for such officer's or servant's interfering with the due administration of justice, or procuring or facilitating the commission of any offence, or protecting from detection or punishment the perpetrator of any offence, or abusing his official powers to the injury or detriment of any person, or
- (b) who, being any such officer or servant, solicits or accepts any gratification as an inducement or a reward for such interfering, procuring, facilitating, protecting, or abusing as is referred to in paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

Bribery for
giving
assistance
or using
influence in
regard to
contracts.

17. A person—

- (a) who offers any gratification to a public servant as an inducement or a reward for such public servant's giving assistance or using influence in the promotion of the procuring of any contract with the Government for the performance of any work, the providing of any service,

the doing of anything, or the supplying of any article, material or substance, or in the execution of any such contract, or in the payment of the price or consideration stipulated therein or of any subsidy payable in respect thereof, or

- (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his giving assistance or using influence in the promotion of the procuring of any such contract as is referred to in paragraph (a) of this section, or in the execution of any such contract, or in the payment of the price or consideration stipulated therein or of any subsidy payable in respect thereof,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

18. A person—

- (a) who, with intent to obtain from the Government a contract for performing any work, providing any service, doing anything, or supplying any article, material or substance, offers any gratification to any person who has made a tender for such contract, as an inducement or a reward for his withdrawing such tender, or
- (b) who solicits or accepts any gratification as an inducement or a reward for his withdrawing a tender made by him for such contract,

Bribery for
procuring
withdrawal
of tenders.

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

19. A person—

- (a) who offers any gratification to a public servant as an inducement or a reward for that public servant's performing or abstaining from performing any official act, or expediting, delaying, hindering or preventing the performance of any official act whether by that public servant

Bribery in
respect of
Govern-
ment
business.

or by any other public servant, or assisting, favouring, hindering or delaying any person in the transaction of any business with the Government, or

- (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his performing or abstaining from performing any official act or for such expediting, delaying, hindering, preventing, assisting or favouring as is referred to in paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

Bribery in connexion with payment of claims, appointments, employment, grants, leases, and other benefits.

20. A person—

- (a) who offers any gratification to any person as an inducement or a reward for—
- (i) his procuring from the Government the payment of the whole or a part of any claim, or
 - (ii) his procuring or furthering the appointment of the first-mentioned person or of any other person to any office, or
 - (iii) his preventing the appointment of any other person to any office, or
 - (iv) his procuring, or furthering the securing of, any employment for the first mentioned person or for any other person in any department, office or establishment of the Government, or
 - (v) his preventing the securing of any employment for any other person in any department, office or establishment of the Government, or
 - (vi) his procuring, or furthering the securing of, any grant, lease or other benefit from the Government for the first-mentioned person or for any other person, or

(vii) his preventing the securing of any such grant, lease or benefit for any other person, or

(b) who solicits or accepts any gratification as an inducement or a reward for his doing any of the acts specified in sub-paragraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both.

21. A person—

(a) who, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any gratification to any public servant employed in that department, office or establishment, or

Bribery of public servants by persons having dealings with the Government.

(b) who, within one year before or after his having dealings of any kind with the Government through any department, office or establishment of the Government, offers any gratification to any public servant employed in that department, office or establishment, or

(c) who, being a public servant, solicits or accepts any gratification the offer of which is an offence under this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years or a fine not exceeding five thousand rupees or both :

Provided, however, that such offer of a gratification to a public servant as is referred to in paragraph (b) of this section shall not be an offence under this section if the offerer proves that the gratification was bona fide offered for a purpose not connected with and not relating to such dealings as are referred to in that paragraph and that when he offered the gratification he had no hope or expectation of having any such dealings or he did not intend that the gratification should be an inducement or a reward for that public servant's doing or forbearing to do any act connected with or relating to any such dealings.

Bribery of member of local authority, or of scheduled institution, or of governing body of scheduled institution, and bribery of officer or employee of local authority or of such institution.

22. A person—

- (a) who offers any gratification to any member of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution, as an inducement or a reward for—
 - (i) such member's voting or abstaining from voting at any meeting of such local authority, scheduled institution, or governing body or of a committee thereof in favour of or against any measure, resolution or question submitted to such local authority, scheduled institution, governing body, or committee, or
 - (ii) such member's performing, or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act, or
 - (iii) such member's aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or
- (b) who offers any gratification to any officer or employee of any local authority, or of any scheduled institution, as an inducement or a reward for—
 - (i) such officer's or employee's performing or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act, or
 - (ii) such officer's or employee's procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or
- (c) who, being such member as is referred to in paragraph (a) of this section, solicits or accepts any gratification as an inducement or a reward for any such act, or any such

abstaining, as is referred to in sub-paragraphs (i), (ii) and (iii) of that paragraph, or

- (d) who, being such officer or employee as is referred to in paragraph (b) of this section, solicits or accepts any gratification as an inducement or a reward for any such act, or any such abstaining, as is referred to in sub-paragraphs (i) and (ii) of that paragraph,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

23. A person—

- (a) who attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution in giving or withholding his vote in favour of or against any measure, motion, resolution or question submitted to any meeting, or in not attending any meeting, of such local authority, scheduled institution, or governing body or of any committee thereof, or
- (b) who attempts by any such means as in the last preceding paragraph mentioned to influence any member or any officer or employee of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or to perform or abstain from performing, or to aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act,

Use of threats or fraud to influence vote of member of local authority, or of scheduled institution, or of governing body of scheduled institution.

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years or a fine not exceeding five thousand rupees or both.

Acceptor of gratification to be guilty notwithstanding that purpose not carried out, &c.

24. Where in any proceedings against any person for any offence under any section in this Part of this Act, it is proved that he accepted any gratification, having grounds to believe or suspect that the gratification was offered in consideration of his doing or forbearing to do any act referred to in that section, he shall be guilty of an offence under that section notwithstanding that he did not actually have the power, right or opportunity so to do or forbear or that he accepted the gratification without intending so to do or forbear or that he did not in fact so do or forbear.

Attempt to commit, and abetment of, an offence under this Part.

25. (1) A person who attempts to commit or to cause the commission of an offence under this Part of this Act and in such attempt does any act towards the commission of that offence shall be guilty of an offence and shall be tried in the same manner, and shall upon conviction be liable to the same punishment, as is prescribed by this Act for the first-mentioned offence.

(2) A person who abets an offence under this Part of this Act shall be guilty of an offence and shall be tried in the same manner, and shall upon conviction be liable to the same punishment, as is prescribed by this Act for the first-mentioned offence. In this subsection the expression "abet" shall have the same meaning as in sections 100 and 101 of the Penal Code.

When penalty to be imposed in addition to other punishment.

26. Where a court convicts any person of an offence committed by the acceptance of any gratification in contravention of any provision of this Part of this Act, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the court shall, in addition to the court's imposing on that person any other punishment, order him to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of that gratification or is, in the opinion of the court, the value of that gratification.

Frivolous, false and groundless complaints to be reported to the Attorney-General.

27. (1) Where, at the conclusion of the trial of any person charged with bribery before a court, the presiding Judge, if the court is the Supreme Court, or the District Judge, if the court is the District Court, or where at the conclusion of the inquiry by a board of

inquiry into a charge of bribery against any person, the board, is of the opinion that the complainant has wilfully and with intent to harm that person made a false, frivolous, or groundless allegation against him, such presiding Judge or District Judge or the president of such board, as the case may be, shall certify that opinion under his hand and transmit it together with the record of the proceedings to the Attorney-General.

(2) Where a certificate under subsection (1) is given in regard to an allegation of bribery made by any person, it shall not be necessary to obtain the sanction of the Attorney-General to institute civil proceedings against that person in respect of that allegation.

28. (1) A fine or a penalty imposed by a court on any person for bribery may be recovered as if the order imposing the fine or the penalty were a decree entered by that court in favour of the Crown and against that person.

Recovery of fine or penalty imposed by court, and penalty imposed by a board of inquiry, for bribery.

(2) Where the amount of a penalty imposed on any person by a board of inquiry is not paid by him within the time allowed by the board, the Attorney-General may apply to such District Court as he may determine for an order, and that District Court shall upon such application make an order, for the payment of that amount by that person, and, if that person fails to pay that amount within the time allowed by the order, that amount may be recovered in like manner as if the order were a decree entered by that District Court in favour of the Crown and against that person.

(3) Where the person liable to pay the fine or penalty referred to in the preceding provisions of this section was a public servant on the date of commission of the offence for which the fine or penalty was imposed, then, notwithstanding anything to the contrary in any other written law, any movable or immovable property acquired after that date by the spouse of, or a son or daughter maintained by, such person shall, in addition to the movable and immovable property of such person, be liable to be seized and sold

for the recovery of the amount of such fine or penalty, if the property so acquired—

- (a) was purchased by such spouse, son or daughter, or,
- (b) was purchased in the name of such spouse, son or daughter by the person liable to pay such fine or penalty, or
- (c) was acquired by such spouse, son or daughter by purchase, gift or otherwise from the person who offered the gratification for the acceptance of which the person liable to pay such fine or penalty became so liable, or
- (d) was acquired by testate or intestate succession from the person liable to pay such fine or penalty.

(4) In the proceedings in any court for the recovery of the amount of a fine or penalty referred to in the preceding provisions of this section, it shall not be competent for that court or for anyone to question the competence of the court which imposed the fine or penalty or the competence of the board of inquiry which imposed the penalty.

Effect of a court's convicting a person of bribery, or the finding of a commission of inquiry or board of inquiry that a person is guilty of bribery.

29. Where a person is convicted or found guilty of bribery by a court, commission of inquiry, or board of inquiry, then, by reason of such conviction or finding—

- (a) he shall become incapable for a period of seven years from the date of such conviction or finding of being registered as an elector or of voting at any election under the Ceylon (Parliamentary Elections) Order in Council, 1946, or for a period of five years under the Local Authorities Elections Ordinance, or of being elected or appointed as a Senator or Member of Parliament or as a member of a local authority, and, if at that date he has been elected or appointed as a Senator or Member of Parliament or member of a local authority, his election or appointment shall be vacated from that date ;

- (b) he shall be disqualified for all time from being employed as a public servant and from being elected or appointed to a scheduled institution or to the governing body of a scheduled institution ;
- (c) he shall, if he is a member of a scheduled institution or of the governing body of a scheduled institution, cease to be such member from the date of such conviction or finding ; and
- (d) he shall, if he is a public servant, cease to be a public servant from the date of such conviction or finding and, notwithstanding anything to the contrary in any other written law, be deemed to have been dismissed on that date by the authority empowered by law to dismiss him.

30. All offences under this Part of this Act shall be cognizable offences for the purpose of the application of the provisions of the Criminal Procedure Code notwithstanding anything contained in the First Schedule of that Code.

Offences under this Part to be cognizable.

31. A District Court may try a person charged with any offence under this Part of this Act and, upon the conviction of that person, impose on him any punishment prescribed for that offence by this Act notwithstanding any limitation of the ordinary jurisdiction of that court.

Jurisdiction of District Court to try and punish offences under this Part.

PART III

COMMISSIONS OF INQUIRY

32. (1) The Governor-General may, on the advice of the Prime Minister, appoint, by warrant under the Public Seal of Ceylon, a commission of inquiry consisting of one or more members to inquire into and report on any allegations of bribery—

Power to appoint commissions of inquiry to investigate allegations of bribery.

- (a) made generally against the Cabinet of Ministers, or the members of either the Senate or the House of Representatives, or the members of any local authority, or the persons

appointed by the Governor-General to any office, or the members, directors, or governing body of any scheduled institution, or

(b) made against any particular person or persons specified in paragraph (a) of this subsection.

(2) A warrant appointing a commission of inquiry under this Act shall contain such particulars as are required by subsection (2) of section 2 of the Commissions of Inquiry Act, to be set out in a warrant issued under that Act.

Application
of provisions
of Commis-
sions of
Inquiry Act.

33. Upon the appointment of a commission of inquiry under this Act, the provisions of the Commissions of Inquiry Act other than the provisions of subsection (1) of section 2 and the provisions of section 17, shall apply in like manner as if such commission were appointed under that Act.

Powers of
commissions
of inquiry.

34. (1) A commission of inquiry shall, in addition to the powers under the Commissions of Inquiry Act, have—

(a) the power to cause summons on any person issued in proceedings before the commission to be served in any manner specified in paragraphs (a), (b), (c), (d) and (e) of section 12 ;

(b) the power to issue warrants of arrest in case of disobedience to summons ;

(c) the power to require by written notice the person or each person in respect of whom the commission is holding an inquiry to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person and by the spouse, sons and daughters of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise ;

- (d) the power to require by written notice any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the commission has reasonable grounds to believe that such information can assist the inquiry ;
- (e) the power, in regard to the person or each person in respect of whom the inquiry is held and in regard to the spouse, sons and daughters of that person, to require by written notice any bank, or any department, office or establishment of the Government, or any local authority or scheduled institution to produce any such books and documents, and to furnish any such certified copies and any such information, as the Attorney-General may require under section 4 to be produced or furnished ; and
- (f) such other powers as may be conferred on the commission by the Governor-General either by the warrant constituting the commission or by any subsequent warrant.

(2) A warrant of arrest issued by a commission of inquiry—

- (a) shall be under the hand of the chairman of the commission or, if the commission consists of a sole Commissioner, under the hand of such Commissioner, and
- (b) shall be executed by the Fiscal or any police officer to whom it is directed.

No stamp duty shall be payable for any such warrant of arrest.

(3) A commission of inquiry shall treat all information obtained by it under paragraph (d) of subsection (1) with the strictest secrecy and shall not divulge such information to any person other than the Attorney-General, the person in respect of whom the inquiry is held, or any advocate or proctor appearing for that person.

Inquiry
despite
absence of
person
affected.

35. Where a person in respect of whom a commission of inquiry is holding an inquiry refuses or neglects to attend the inquiry, the commission may proceed with the inquiry in his absence.

Language
of evidence.

36. (1) A commission of inquiry may cause the evidence given before it to be taken down in such language as it may deem proper.

(2) Where any evidence is given before a commission of inquiry in a language which any member of the commission does not understand, it shall be interpreted into a language understood by that member.

Offence of
contempt
against
commission
of inquiry to
be com-
municated to
the Chief
Justice.

37. (1) Every offence of contempt committed against or in disrespect of the authority of a commission of inquiry shall be communicated to the Chief Justice by letter under the hand of the chairman of the commission or, where the commission consists of a sole Commissioner, under the hand of such Commissioner.

(2) The Chief Justice shall, upon his receiving from a commission of inquiry a communication under subsection (1), issue a rule *nisi* for contempt of court on the person named in that communication as having committed the offence of contempt against or in disrespect of the authority of that commission.

(3) A person on whom a rule *nisi* is issued under subsection (2) shall be liable to be punished unless he shows cause to the satisfaction of the Supreme Court or a Judge thereof.

(4) In any proceedings against any person for the offence of contempt committed against or in disrespect of the authority of a commission of inquiry, no member of that commission shall be liable to be summoned as a witness by that person, but the Supreme Court may, if that court considers it necessary to do so, examine a member of that commission.

Publication
of report of
commission
of inquiry.

38. (1) The Governor-General shall order the publication of the report of a commission of inquiry if in his opinion the public interest will not suffer by such publication.

(2) Where the Governor-General decides not to publish the report of a commission of inquiry on the

ground that the public interest will suffer by its publication, he shall, on being requested so to do by a resolution passed by the Senate and by the House of Representatives, order the publication of such report.

39. (1) Where a commission of inquiry finds that any person is guilty of bribery by having accepted a gratification—

- (a) the commission shall, if that gratification is a sum of money, state that sum, or, if the value of that gratification can be assessed, assess and declare that value, in its report, and
- (b) the Attorney-General shall in writing communicate such finding to that person and, if a sum is specified in that report as the amount or the value of that gratification, direct that person to pay that sum to the Attorney-General within such time as may be specified in the direction.

(2) If a person fails to pay the sum directed by the Attorney-General under subsection (1) to be paid, the Attorney-General may apply to such District Court as he may determine for an order, and that District Court shall upon such application make an order, for the payment of that sum by that person, and, if that person fails to pay that sum within the time allowed by the order, that sum may be recovered in like manner as if the order were a decree entered by that District Court in favour of the Crown and against that person.

(3) If the person liable to pay the sum referred to in subsection (2) was a public servant on the date of his acceptance of the gratification, the provisions of subsection (3) of section 28 shall, for the purposes of the recovery of that sum, apply in like manner as if that sum were a penalty imposed by a court under section 26.

(4) In the proceedings in a District Court for the recovery of the sum referred to in subsection (2), it shall not be competent for that court or for anyone to question the sum declared by the commission of inquiry to be the amount, or the value, of the gratification.

Assessment of value of gratification where commission of inquiry finds person guilty of bribery by having accepted a gratification.

PART IV

BOARDS OF INQUIRY

Duration
of this
Part.

40. (1) This Part of this Act shall cease to be in operation at the end of eighteen months from the appointed date unless its operation is extended as provided by subsection (2).

(2) The Governor-General may, on the advice of the Prime Minister, by Proclamation published in the Gazette extend from time to time the operation of this Part of this Act for such period as he may on like advice determine.*

(3) Where this Part of this Act ceases to be in operation, the provisions of subsection (3) of section 6 of the Interpretation Ordinance shall apply in all respects in like manner as though this Part of this Act had been repealed.

Panels from
which
boards of
inquiry are
to be
constituted.

41. (1) The Governor-General shall, on the advice of the Prime Minister, constitute four panels, each of not more than twenty members, for the purposes of the constitution of boards of inquiry.

(2) One panel shall consist of persons who have retired from service under the Crown having held office as Judge of the Supreme Court or District Judge.

(3) The second panel shall consist of retired public servants who at the time of retirement held any office the basic salary of which was not less than Rs. 15,000 per annum and of public servants holding any office the basic salary of which is not less than Rs. 15,000 per annum.

(4) The third panel shall consist of retired public servants who at the time of retirement held any office the basic salary of which was not less than Rs. 12,000 per annum and of public servants holding any office the basic salary of which is not less than Rs. 12,000 per annum.

(5) The fourth panel shall consist of persons of good repute not falling within any of the three preceding categories.

* Operation of Part IV extended for a period of 18 months from 1st September, 1955.—Gazette No. 10,824 of 5th August, 1955

(6) The members of each panel shall be on the panel for a term of three years and shall be eligible for re-appointment.

(7) The Governor-General shall, on the advice of the Prime Minister, fill vacancies in the panels caused by death, resignation, or otherwise.

(8) A person appointed to fill any vacancy shall hold office for the remainder of the term of office of the member in whose place he has been appointed.

42. (1) A board of inquiry shall consist of not less than three members selected by the Attorney-General by lot from any one or more of the panels constituted under this Part of this Act. In no case shall a board of inquiry consist of an even number of members.

Constitution
of boards of
inquiry.

(2) A different board of inquiry shall be constituted as herein provided for each inquiry.

(3) Where it appears to the Attorney-General that a member of a panel whose name is drawn is not in Ceylon or is owing to illness or other incapacity incapable of serving, or is for any reason unable to serve, on a board of inquiry, the Attorney-General may draw another name instead.

(4) Where the Attorney-General is satisfied that, owing to the relations between a member of a board of inquiry and the person arraigned before the board, it is desirable that another member should be appointed, he may draw another name instead.

43. (1) The members of a board of inquiry shall by agreement decide which of them shall officiate as president of the board, but where a retired judicial officer is a member of the board, he shall preside. If a board of inquiry consists of more than one retired judicial officer, the board shall by agreement decide which of them shall preside.

President
of a board of
inquiry, and
quorum for
a meeting of
such board.

(2) If the president is unable to be present at any sitting of a board of inquiry, the remaining members of the board shall by agreement decide which of them shall preside.

(3) At a meeting of a board of inquiry the quorum shall be two.

When a board of inquiry may be replaced by a new board.

44. If the president is from any cause whatsoever unable to participate in the final decision of a board of inquiry and there is an equal division of opinion among the remaining members of the board, the Attorney-General shall replace the board with another board of inquiry constituted under this Part of this Act; and the new board shall inquire afresh into the charge which was inquired into by the previous board and in doing so may use the evidence already recorded by the previous board or take evidence afresh.

Remuneration of members of a board of inquiry.

45. The members of every board of inquiry shall be paid such subsistence, travelling and other allowances as may be fixed by the Minister of Finance from time to time.

Secretary to a board of inquiry.

46. (1) There shall be a secretary to every board of inquiry (hereinafter referred to as "the secretary") and one or more assistant secretaries.

(2) An assistant secretary shall assist the secretary in the performance of his duties and functions and shall have power to perform such of the duties and functions of the secretary as he may be authorized by the secretary in writing to perform.

Powers of boards of inquiry.

47. (1) A board of inquiry shall, in addition to any other power conferred on it by this Act, have the following powers :—

- (a) upon the Attorney-General's arraigning a public servant before the board on a charge of bribery, to inquire into such charge and decide whether or not such public servant is guilty of bribery ;
- (b) to procure and receive all such written or oral evidence, and to examine all such persons as witnesses, as the board may think it necessary or desirable to procure or examine ;
- (c) to require the written or oral evidence of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court, and to administer or cause to be administered by an officer authorized in

that behalf by the board an oath or affirmation to every such witness ;

- (d) to summon any person residing in Ceylon to any meeting of the board to give any evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession ;
- (e) to issue warrants of arrest in case of disobedience to summons ;
- (f) notwithstanding any of the provisions of the Evidence Ordinance, to admit any written or oral evidence which may be inadmissible in civil or criminal proceedings in a court ;
- (g) in regard to a public servant arraigned before the board and in regard to the spouse, sons and daughters of that public servant, to require by written notice any bank, or any department, office or establishment of the Government, or any local authority or scheduled institution to produce any such books and documents, and to furnish any such certified copies and any such information, as the Attorney-General may require under section 4 to be produced or furnished ;
- (h) to require by written notice a public servant arraigned before the board to furnish a sworn statement in writing enumerating all movable and immovable property belonging to or possessed by such public servant and by the spouse, sons and daughters of such public servant, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance, or otherwise ;
- (i) to require by written notice any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the board has reasonable grounds to believe that such information can assist the inquiry into a charge of bribery against a public servant.

(2) A board of inquiry shall treat all information obtained by it under paragraph (g) of subsection (1) with the strictest secrecy and shall not divulge such information to any person other than the Attorney-General, the prosecutor, the accused person, and any advocate, proctor or other person defending the accused person.

Board of inquiry to proceed to scene of offence.

48. (1) A board of inquiry selected for inquiring into a charge of bribery shall on a date fixed by the secretary proceed with the necessary staff to the place where the offence is alleged to have been committed or, if that is not practicable, to the most convenient place nearest it and hold the inquiry.

(2) It shall be the duty of the board of inquiry to make a thorough inquiry without regard to legal forms and solemnities.

(3) At any stage of the proceedings the board of inquiry may *ex mero motu* examine any witness or document whether or not called or produced by the prosecutor or by the accused person.

(4) The board of inquiry may, at the request of the prosecutor or the accused person or *ex mero motu*, examine any matter, thing or place which it may deem necessary to examine.

(5) The board of inquiry shall not be bound to complete the inquiry at the place at which the board commences it. The board may in the course of the inquiry, if it is convenient or necessary to do so, proceed to any other place or places and continue and conclude the inquiry.

Proceedings ordinarily to be *in camera*.

49. A board of inquiry shall ordinarily conduct its proceedings *in camera*, but may conduct any proceedings in public if, having regard to the circumstances of any case, it is in the public interest so to do. The board may at any time exclude any person from its proceedings.

Evidence how recorded.

50. (1) A board of inquiry shall take down in writing the evidence of each witness or cause such evidence to be recorded by a clerk or stenographer

acting under its direction. Where the evidence is recorded in shorthand, the president of the board shall sign the transcript.

(2) The president of a board of inquiry shall read over to each witness the record of his evidence and make any necessary corrections in such record.

(3) A board of inquiry shall, according to the circumstances of the case, determine the language in which the proceedings shall be conducted.

(4) Where proceedings are conducted in a language other than English, the record shall, at the discretion of the board of inquiry, be in English or in the language in which the proceedings are conducted.

(5) The evidence of a witness may be taken down at the discretion of the board of inquiry either in the language in which the witness makes his deposition or in English.

(6) Where any member of a board of inquiry does not understand the language in which a witness makes his deposition, the board shall cause the evidence to be interpreted by a qualified interpreter into a language which the member understands.

51. In proceedings before a board of inquiry a witness shall not be entitled to refuse to answer any question relevant to the matter under inquiry on the ground that the answer may directly or indirectly criminate or tend to criminate him or expose or tend to expose him to a penalty or forfeiture of any kind.

Duty to
answer
questions.

52. Subject to the provisions of this Act, a board of inquiry may regulate its own procedure.

Regulation
of procedure.

53. It shall not be necessary to prove the execution of any document produced before a board of inquiry except where the board has reason to doubt its genuineness.

Proof of
documents.

54. A board of inquiry may permit the admission of evidence by consent of the prosecutor and the accused person without proof thereof.

Admission
of evidence
by consent.

Notice of inquiry.

55. (1) The secretary shall give the accused person at least seven days' notice of the date, time and place of the inquiry.

(2) The notice to the accused person shall be sent by registered letter despatched by express post.

Calling of witnesses and use and production of documents not mentioned in list furnished to accused person.

56. A board of inquiry or the prosecutor shall not be precluded from calling at the inquiry witnesses whose names are not in the list furnished by or on behalf of the Attorney-General to the accused person or from using or producing any document not included in such list.

Application to secretary for summons.

57. If either the prosecution or the accused person is unable to secure without summons the attendance of any person as a witness or for the purpose of producing any document or thing, application for summons to compel attendance shall be made in writing to the secretary. Such application shall give the full name and address of each person to be summoned and state concisely the purpose for which his attendance is required.

How process is to be issued.

58. Every summons or warrant of arrest issued in proceedings before a board of inquiry shall be—

(a) under the hand of the president of the board or, in the case of his absence or incapacity, under the hand of any of the other members of the board, or

(b) under the hand of the secretary.

No stamp duty for process.

59. No stamp duty shall be payable for any process issued in proceedings before a board of inquiry.

Service of summons.

60. Summons on a person issued in proceedings before a board of inquiry may be served in the manner of service of summons prescribed by the Criminal Procedure Code or in any manner specified in paragraphs (a), (b), (c), (d) and (e) of section 12 of this Act.

61. Every warrant of arrest issued in proceedings before a board of inquiry shall, unless otherwise directed by the board, be executed by the Fiscal or any police officer to whom it is directed.

Execution of warrants of arrest.

62. (1) A board of inquiry shall not postpone the inquiry on the ground of absence of the complainant except where the inquiry cannot proceed without his presence.

Postponement of inquiry.

(2) A board of inquiry shall not postpone the inquiry on the application of an accused person unless—

- (a) he is so ill as to be unable to attend the inquiry and he is not represented by an advocate or a proctor or by an authorized person, or
- (b) a material witness on whom he has obtained summons has failed to attend and it is not possible to secure his attendance in time for the inquiry to proceed without postponement.

(3) A board of inquiry shall not postpone the inquiry on the ground of illness of a necessary party or a material witness unless the board is satisfied on the testimony on oath or affidavit of a qualified medical practitioner that the necessary party or material witness is so ill as to be unable to attend the inquiry.

63. A board of inquiry may *ex mero motu* adjourn the inquiry in order to examine any witness or document it deems necessary to examine or on any other reasonable ground.

Adjournment of inquiry.

64. Where the accused person neglects or refuses to attend the inquiry, the board of inquiry shall hold the inquiry in his absence.

Ex parte inquiry.

65. In proceedings before a board of inquiry the accused person shall be entitled to defend himself in person or by an advocate or a proctor or by a friend.

Accused person's right of defence.

66. (1) A board of inquiry shall decide whether or not the accused person is guilty of the charge of bribery made against him, and shall as soon as possible after the conclusion of the inquiry announce the decision.

Decisions of boards of inquiry.

(2) In the case of a division of opinion among the members of a board of inquiry, the opinion of the majority of them shall prevail and such opinion shall be announced as the decision of the board.

(3) The secretary shall by registered letter despatched by post communicate the decision of a board of inquiry to—

- (a) the Governor-General, if the accused person is an officer appointed by him ;
- (b) the Public Service Commission, if the accused person is a public servant not appointed by the Governor-General ;
- (c) the Local Government Service Commission, if the accused person is an officer appointed by that commission ; or
- (d) the person or body that appointed the accused person, if the accused person does not belong to any of the categories of accused persons specified in paragraph (a), (b), and (c) of this subsection.

Punishment for public servant found by board of inquiry to be guilty of bribery.

67. Where a board of inquiry decides that the accused person is guilty of bribery—

- (a) the board shall, if the bribery is the acceptance of a gratification and if that gratification is a sum of money or if the value of that gratification can be assessed, order him to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of the gratification or is, in the opinion of the board, the value of that gratification, and
- (b) he shall, in addition to his liability to pay such penalty, be subject or liable to all such disqualifications, disabilities, incapacities and other punishments as by reason of that decision of the board he is subject or liable to under section 29.

Contempts of boards of inquiry.

68. (1) Every board of inquiry is hereby empowered to enforce its authority and obedience to its orders by punishing as for contempt any disregard of or disobedience to its authority committed in the presence

of the board itself or in the course of any proceeding before the board. For the purpose of this section every board of inquiry shall have all the powers conferred on a court by section 57 of the Courts Ordinance and Chapter LXV of the Civil Procedure Code.

(2) Full power and authority to take cognizance of and to try in a summary manner every other offence of contempt committed against or in disrespect of the authority of a board of inquiry is hereby vested in the Supreme Court in like manner as if the board were a court within the meaning of section 47 of the Courts Ordinance.

69. No civil or criminal proceedings shall be instituted against any member of a board of inquiry in respect of any act bona fide done or omitted to be done by him as such member.

Protection
of members
of boards of
inquiry.

PART V

OFFENCES OTHER THAN BRIBERY

70. A person who—

- (a) wilfully neglects or omits to carry out any direction given to him under subsection (4) of section 3 by the Attorney-General or by any officer empowered by that section to direct and conduct an investigation, or
- (b) gives a false answer when questioned under that subsection, or
- (c) makes a false statement in an affidavit submitted by him in compliance with a direction under that subsection,

Wilful
neglect to
carry out
direction of,
or obstruction
of,
investigating
officer, &c.

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than one hundred rupees and not more than five hundred rupees.

71. Notwithstanding the provisions of any other written law or any oath of secrecy to the contrary, every person to whom a notice is sent by the

Failure to
furnish
information.

Attorney-General under subsection (1) of section 4 or by a commission of inquiry under subsection (1) of section 34 or by a board of inquiry under subsection (1) of section 47 shall comply with the provisions of that notice within such time as may be specified therein, and, if he wilfully neglects or omits to do so, he shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than one hundred rupees and not more than five hundred rupees.

Failure to assist investigating officer, and obstruction or resistance of search.

72. A person—

- (a) who, when requested under subsection (4) of section 4 to render to the Attorney-General, or to any officer empowered by section 3 to direct and conduct an investigation, any assistance in the exercise of his powers or the discharge of his duties under this Act, wilfully neglects or omits to render that assistance, or
- (b) who obstructs or resists the Attorney-General, or any officer authorized by the Attorney-General, in the exercise of the powers of entry and search under subsection (3) of section 4, or
- (c) who obstructs or resists the execution of a search warrant issued under section 7,

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine not exceeding five hundred rupees and, upon a second or subsequent conviction of an offence under this section, shall, in addition to such fine, be liable to rigorous imprisonment for a term not exceeding one year.

Interference with witnesses.

73. A person who—

- (a) interferes with any witness summoned in any proceedings for bribery in or before a court, commission of inquiry, or board of inquiry, or
- (b) induces any such witness to refrain from giving evidence, or

(c) threatens any such witness with injury to his body, mind or reputation in order to deter him from giving evidence, or

(d) injures any such witness in body, mind or reputation in order to deter him from giving evidence, or

(e) compels any such witness not to give evidence,

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding twelve months and to a fine.

74. (1) A person who directly or indirectly influences any member of either a commission of inquiry or a board of inquiry, or any officer appointed under this Act, in the performance of his duty shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees.

Influencing, threatening or injuring member of commission of inquiry or of board of inquiry, or officer appointed under this Act.

(2) A person who directly or indirectly by words written or spoken or by any act threatens any member of either a commission of inquiry or a board of inquiry, or any officer appointed under this Act, with any injury to his body, mind or reputation in order to deter him from the performance of his duty shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees and, upon a second or subsequent conviction of an offence under this subsection, shall, in addition to such fine, be liable to imprisonment for a term not exceeding one year.

(3) A person who causes injury to the body, mind or reputation of a member of either a commission of inquiry or a board of inquiry, or of any officer appointed under this Act, in order to deter him from the performance of his duty shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding twelve months and to a fine.

Disobeying
commission
of inquiry or
board of
inquiry.

75. (1) A person who refuses or wilfully neglects or omits to carry out an order of either a commission of inquiry or a board of inquiry or wilfully obstructs such commission or board shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to a fine of not less than one hundred rupees and not more than five hundred rupees.

(2) A prosecution for an offence under subsection (1) may be instituted in such Magistrate's Court as may be determined by the Attorney-General.

Failure to
obey sum-
mons, to
give
evidence,
answer
questions,
&c.

76. If any person upon whom a summons issued by a board of inquiry is served—

- (a) fails, without such cause as in the opinion of the board is reasonable, to appear at the time and place mentioned in the summons ; or
- (b) refuses to take the oath or make the affirmation or, having taken the oath or made the affirmation, refuses or fails, without such cause as in the opinion of the board is reasonable, to answer any question put to him relating to the matters under inquiry ; or
- (c) refuses or fails, without such cause as in the opinion of the board is reasonable, to produce any document or other thing which is in his possession or under his control and which, in the opinion of the board, is necessary for arriving at the truth of the matters under inquiry,

he shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to a fine or to both.

Publication
of proceed-
ings held
in camera,
decision of
board of
inquiry, and
report of
commission of
inquiry.

77. (1) Where the public and the press have been excluded from any proceedings of either a commission of inquiry or a board of inquiry, no person shall print or publish those proceedings or any part thereof except with the permission of the commission or board, given in writing under the hand of the chairman of the commission or president of the board or, if the

commission consists of a sole commissioner, under the hand of such commissioner.

(2) Where the decision of a board of inquiry is announced *in camera*, no person shall print or publish such decision or any part or what purports to be a part or an excerpt of such decision except with the permission of the board given in writing by its president.

(3) No person shall, before the publication of the report of a commission of inquiry under the order of the Governor-General, print or publish any part of such report or what purports to be a part or an excerpt of such report.

(4) A person who contravenes the provisions of any of the preceding subsections of this section shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees and, upon a second or subsequent conviction of an offence under this subsection, shall, in addition to such fine, be liable to rigorous imprisonment for a term not exceeding one year.

PART VI

GENERAL

78. (1) No prosecution for an offence under this Act shall be instituted in any court except by, or with the written sanction of, the Attorney-General.

(2) The proceedings in a District Court for bribery shall be taken up before any other business of that court unless special circumstances of urgency in such other business render it impossible to do so.

(3) Upon application made in that behalf by the Attorney-General or any officer authorized by him, the whole or any part of the proceedings in any court for bribery may be held *in camera*.

(4) Subject to the other provisions of this Act, no civil or criminal proceedings in respect of any allegation of bribery made to the Attorney-General or to

Prosecution for offences under this Act, and suits and proceedings in respect of allegations of bribery or statements in evidence, reports, and decisions.

any public servant in his official capacity shall be instituted in any court against the person who made the allegation except with the written sanction of the Attorney-General.

(5) Subject to the other provisions of this Act, no civil or criminal proceedings shall, except with the written sanction of the Attorney-General, be instituted in any court against a person in respect of any written or oral evidence given by him in any proceedings for bribery.

(6) Nothing contained in the report of a commission of inquiry published under the order of the Governor-General or in a decision of a board of inquiry shall be made the ground of an action for defamation, and no court shall entertain an action for defamation based on anything contained in any such report or decision.

Person giving gratification not to be treated as accomplice.

79. (1) In any proceedings for bribery in any court, or before a commission of inquiry, or board of inquiry, the giver of a gratification shall be a competent witness against the person accused of taking the gratification and shall not be regarded as an accomplice, and the decision or finding of the court, commission or board shall not be illegal merely because it proceeds upon the uncorroborated testimony of such giver.

(2) In any proceedings against any person under this Act, the spouse of that person shall be a competent witness.

Bail from person about to leave Ceylon after commencement of investigation or proceedings.

80. (1) If any person, in the course of an investigation of an allegation of bribery against him or in the course of any proceedings against him for bribery, is preparing or about to leave Ceylon, the Attorney-General or any officer authorized in that behalf by the Attorney-General may apply to any Magistrate for an order requiring such person to furnish bail in such sum as the Magistrate may deem reasonable.

(2) If a person ordered to furnish bail under subsection (1) fails to do so, he shall be remanded to the custody of the Fiscal till such bail is furnished or till such time as the Attorney-General may determine.

81. (1) At any time before the conclusion of the trial of a person charged with bribery or of the inquiry into a charge of bribery, the Attorney-General may, with the view of obtaining at the trial or inquiry the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender, or by writing under his hand authorize any Magistrate named by him to tender, a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or as abettor in the commission thereof.

Tender of conditional pardon.

(2) The Magistrate shall record in the manner prescribed by the Criminal Procedure Code the evidence on oath of every person accepting a pardon under subsection (1) and transmit the record to the Attorney-General.

82. Where any summons, notice, direction, decision or other matter is sent or communicated to any person by registered letter or telegram, then, upon the production of the receipt issued by the post office for such letter or telegram, it shall be presumed that such letter or telegram was received by the addressee, unless such letter or telegram is returned undelivered.

Presumption as to receipt of letter or telegram.

83. The Attorney-General may by writing under his hand delegate to the Solicitor-General any of his powers and functions under this Act except the power to sanction civil or criminal proceedings.

Delegation of Attorney-General's powers and functions under this Act.

84. The Governor-General may, on the advice of the Prime Minister, amend the Schedule to this Act by Proclamation published in the Gazette.

Amendment of the Schedule.

85. Notwithstanding anything to the contrary in the Income Tax Ordinance, the Commissioner of Income Tax shall report to the Attorney-General for investigation any case where he suspects from information available to him that any person is guilty of bribery.

Commissioner of Income Tax to report to Attorney-General cases of suspected bribery.

PART VII

INTERPRETATION

Indirect ownership of property.

86. For the purposes of this Act, property which is held by or in the name of a person in trust for or for the benefit of any other person shall be deemed to be indirectly owned by such other person.

How to construe reference to Government.

87. Every reference in this Act to the Government shall be construed as including a reference to a local authority and to every scheduled institution.

When a person offers a gratification.

88. For the purposes of this Act a person offers a gratification if he or any other person acting with his knowledge or consent directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any gratification to or for the benefit of or in trust for any other person.

When a person solicits or accepts a gratification.

89. For the purposes of this Act—

- (a) a person solicits a gratification if he, or any other person acting with his knowledge or consent, directly or indirectly demands, invites, asks for, or indicates willingness to receive, any gratification, whether for the first-mentioned person or for any other person, and
- (b) a person accepts a gratification if he, or any other person acting with his knowledge or consent, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any gratification, whether for the first-mentioned person or for any other person.

Meaning of expressions.

90. In this Act, unless the context otherwise requires—

“appointed date” means the 1st day of March, 1954 ;

“board of inquiry” means a board of inquiry constituted under this Act :

“bribery” means the offer, solicitation or acceptance of any gratification in contravention of any provision of Part II of this Act, or any other act in contravention of any such provision ;

“commission of inquiry” means a commission of inquiry appointed under this Act ;

“gratification” includes—

(a) money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether movable or immovable,

(b) any office, employment or contract,

(c) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part,

(d) any other service, favour or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty, and

(e) any offer, undertaking or promise of any gratification within the meaning of the preceding paragraphs (a), (b), (c) and (d) ;

“local authority” means any Municipal Council, Urban Council, Town Council, Village Committee, Board of Health, or Board of Improvement, and includes—

(a) a committee of any such Council or of a Village Committee, and

(b) a committee appointed by an Urban Council under section 29 of the Urban Councils Ordinance, or by a Town Council under section 28 of the Town Councils Ordinance ;

“public servant” includes every officer, servant or employee of the Crown, or of any local authority, or of any scheduled institution, every juror, and every arbitrator or other person to whom any cause or matter has been referred for decision or report by any court or by any other competent public authority ;

“scheduled institution” means any such board, institution, corporation or other body as is for the time being specified in the Schedule to this Act.

[Sections 84
and 90.]

SCHEDULE

Agricultural and Industrial Credit Corporation of Ceylon established under the Agricultural and Industrial Credit Corporation Ordinance.

Air Ceylon Limited established under the Air Ceylon (Incorporation) Act.

Bank of Ceylon established under the Bank of Ceylon Ordinance.

Boards of Appeal constituted under the Rubber Control Ordinance.

Board of Indigenous Medicine constituted under the Indigenous Medicine Ordinance.

Board of Review constituted under the Income Tax Ordinance.

Board of Review constituted under the Land Acquisition Act.

Board of Review constituted under the Rent Restriction Act.

Central Bank of Ceylon established under the Monetary Law Act.

Ceylon Savings Bank regulated by the Ceylon Savings Bank Ordinance.

Colombo Special Areas Development Board established under the Special Areas (Colombo) Development Ordinance.

Commissioners of the Loan Board appointed under the Loan Board Ordinance.

Compensation Boards established under the Antiquities Ordinance.

Co-operative Societies registered under the Co-operative Societies Ordinance.

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- Debt Conciliation Board of Ceylon established under the Debt Conciliation Ordinance.
- Gal Oya Development Board established under the Gal Oya Development Board Act.
- Industrial Products Regulation Board established under the Industrial Products Act.
- Local Government Service Commission established under the Local Government Service Ordinance.
- Registered Community Centres.
- Registered Rural Development Societies.
- Rent Control Boards constituted under the Rent Restriction Act.
- The Board of the Tea Research Institute of Ceylon established under the Tea Research Ordinance.
- The Board of Trustees of the Lady Lochore Loan Fund constituted under the Lady Lochore Loan Fund (Board of Trustees) Act.
- The Ceylon Coconut Board established under the Coconut Products Ordinance.
- The Ceylon State Mortgage Bank established under the Ceylon State Mortgage Bank Ordinance.
- The Ceylon Tea Propaganda Board established under the Tea Propaganda Ordinance.
- The Coconut Research Board established under the Coconut Research Ordinance.
- The Co-operative Wholesale Establishment established under the Co-operative Wholesale Establishment Act.
- The Local Loan and Development Commissioners appointed under the Local Loans and Development Ordinance.
- The Monetary Board of the Central Bank constituted under the Monetary Law Act.
- The Rubber Research Board established under the Rubber Research Ordinance.
- The Tea Research Institute of Ceylon established under the Tea Research Ordinance.
- Transport Appeals Tribunal constituted under the Motor Traffic Act.
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CHAPTER 27

DANGEROUS KNIVES

Ordinances
Nos. 28 of 1906,
14 of 1907,
12 of 1945,

Act
No. 30 of 1949.

AN ORDINANCE TO PROHIBIT THE CARRYING OF DANGEROUS
KNIVES.

[24th November, 1906.]

CHAPTER I

Short title.

1. This Ordinance may be cited as the Knives Ordinance.

Application of
Ordinance.

2. (1) The Minister¹ may, by Order¹ to be published in the Gazette,* declare the provisions contained in Chapter II of this Ordinance to be in force in any district, village, or part of Ceylon; and thereupon the same shall be in force within the limits and from the date mentioned in such Order.¹

(2) The Minister¹ may in like manner exempt from the operation of Chapter II of this Ordinance any district, village, or part of Ceylon in which this Ordinance has been declared to be in force.

CHAPTER II

Penalty for
wearing, &c.,
prohibited
knives.

[§ 2, 30 of 1949.]

3. Any person who carries on or about his person, or wears any prohibited knife, shall be guilty of an offence, and shall be liable, on conviction thereof, to a fine not exceeding fifty rupees, and for the second and any subsequent offence to a fine not exceeding

* Proclaimed in—

The Central Province.—	Gazette No. 6,227 of 31st January, 1908.
The Kegalla District.—	" No. 6,303 of 2nd April, 1909.
The Kurunegala District.—	" No. 6,244 of 29th May, 1908.
The Ratnapura District.—	" No. 7,664 of 21st January, 1928.
The Southern Province.—	" No. 6,172 of 1st March, 1907.
The whole of Ceylon.—	" No. 10,019 of 23rd September, 1949, as from 1st October, 1949.

one hundred rupees ; and in every prosecution under this section the prohibited knife in respect of which such person is convicted shall be forfeited.

[§ 2, 30 of 1949.]

4. Where the use of any instrument which is a prohibited knife within the meaning of this Ordinance is indispensable for the purpose of carrying on any lawful trade, craft, or pursuit, the carrying or wearing of such instrument by any person when actually engaged in any such trade, craft, or pursuit shall not be an offence under this Ordinance.

Exception
with regard to
instruments
indispensable
for lawful
trades &c.

5. Nothing in this Ordinance shall extend to the carrying or wearing of any military weapon by any person serving in any of Her Majesty's forces or in any police force or in any corps of pioneers or volunteers.

Exception
with regard
to military
weapons.

6. (1) It shall be lawful for any peace officer or headman or for any revenue or judicial officer to call upon any person wearing or carrying any instrument which may reasonably be suspected to be a prohibited knife, to produce the same to him for inspection ; and, if such instrument proves to be a prohibited knife, to detain the same until such time as he can produce it before the court.

Power of
peace officers,
&c., to require
production of
knives for
inspection.

(2) An officer referred to in subsection (1) may arrest a person who, when called upon by that officer to produce for inspection an instrument which that person is wearing or carrying, refuses or fails to do so forthwith, or who prevents or attempts to prevent that officer from detaining a prohibited knife. Where an officer other than a peace officer, by virtue of the powers vested in him by this subsection, arrests a person, he shall forthwith commit that person to the custody of a peace officer ; and a peace officer to whose custody an arrested person is committed under this subsection shall deal with that person in accordance with the provisions of section 36 of the Criminal Procedure Code as though he had arrested that person without warrant.

[§ 3, 30 of 1949.]

(3) Whoever, when called upon by any of the officers named in subsection (1) to produce any such instrument for inspection, refuses or fails to do so

[§ 3, 30 of 1949.]

[§ 3, 30 of 1949.]

forthwith, or prevents or attempts to prevent any such officer from detaining any prohibited knife, shall be guilty of an offence against this Ordinance, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees.

Court for trial of offences.

7. Every offence alleged to have been committed against the provisions of this Ordinance shall be triable by the Magistrate's Court having local jurisdiction; but where such offence is committed within any division in which a Rural Court is established it shall be triable either by the Magistrate's Court or by the Rural Court which shall be nearest to the place where the offence is alleged to have been committed, anything in any other enactment or law to the contrary notwithstanding.

Offenders under this Ordinance not to be discharged with admonition or conditionally.
[§ 4, 30 of 1949.]

8. The provisions of Chapter XXVI of the Criminal Procedure Code and the provisions of subsection (3) of section 26 of the Rural Courts Ordinance shall not apply to a person charged with an offence under this Ordinance.

Penalties for false charge.

9. Should the court which tries any case under the provisions of this Chapter find that the charge is false, frivolous, or vexatious, it shall be lawful for such court to impose on the complainant a fine not exceeding five rupees.

Limitation of prosecutions.

10. No prosecution shall be instituted against any person for an offence against this Ordinance after the lapse of one month from the time when the offence is alleged to have been committed.

CHAPTER III

Power of Magistrate to order persons convicted under section 315 of the Penal Code to be whipped.

11. Whenever a person is convicted before a Magistrate's Court of an offence under section 315 of the Penal Code, such Magistrate's Court may, in addition to or in lieu of any punishment to which the offender may be sentenced for such offence, order such offender to be whipped in manner prescribed by the

Criminal Procedure Code, but the number of lashes or strokes to be inflicted shall in no case exceed the limit prescribed by the Corporal Punishment Ordinance.

12. Whenever any person is convicted by any court other than a Rural Court of any offence not punishable by death in which the knife has been used, or of the abetment of or the attempt to commit any such offence, it shall be lawful for such court, in lieu of or in addition to any punishment to which the offender is liable, to make an order in such case prohibiting him on his discharge from custody from wearing, carrying, or concealing about his person any knife outside the precincts of the house, hut, or boutique in which he ordinarily resides, unless he shall have first obtained a licence from the Government Agent as is hereinafter provided.

Convicted person may be prohibited from carrying a knife.

13. It shall be lawful for the Government Agent of the district in which such person resides to issue a licence (either with or without conditions) to such person to wear or carry a knife (not being a prohibited knife) outside the precincts of the house, hut, or boutique in which such person ordinarily resides, for such period and under such conditions as to the Government Agent shall seem fit.

Power of Government Agent to issue licences.

14. When any person against whom an order has been made under section 12 does, without having obtained a licence under the last preceding section, any act in contravention of such order, or in any way contravenes the terms or conditions of any licence issued under the last preceding section, then and in every such case such person shall be guilty of an offence punishable on conviction with imprisonment of either description for any period not exceeding six months ; and if a licence has been granted to him such licence shall thereupon be cancelled.

Contravention of order or condition of licence.

15. The Minister of Justice¹ may, by Order,¹ declare what offences under the last preceding section when committed in any province or district of Ceylon specified in the Order¹ are cognizable offences, and thereupon and until such Order¹ is revoked such

Power of Minister of Justice to declare certain offences to be cognizable offences.

offences when so committed shall be cognizable offences within the meaning of the Criminal Procedure Code.

Interpretation.

16. In this Ordinance, unless the contrary intention appears—

“court” includes a Rural Court ;

“district” means administrative district ;

“peace officer” bears the meaning given to the term by the Criminal Procedure Code ;

“prohibited knife” means any knife, whether a clasp knife or otherwise, the blade of which is more than two inches in length, and is not so rounded or blunted at the point as to be incapable, in the opinion of the court, of being used as a stabbing instrument, and includes any sword, dagger, or similar weapon adapted for use as a stabbing instrument.

[§ 5, 30 of 1949.]

CHAPTER 28

INFORMERS REWARDS

AN ORDINANCE TO MAKE PROVISION FOR THE REWARDING OF
INFORMERS IN CERTAIN CASES.

Ordinances
Nos. 1 of 1914,
24 of 1928,
25 of 1930,
32 of 1933.

[23rd February, 1914.]

1. This Ordinance may be cited as the Informers
Reward Ordinance.

Short title.

2. It shall be lawful for the court before which an
offender is convicted of an offence under any of the
enactments enumerated in the Schedule to direct in
respect of any fine that may be imposed for such
offence that any share not exceeding one-half thereof
or of so much as shall actually be recovered be awarded
to the informer :

Informer's
share of fine.

Provided that in the case of offences under the
Prevention of Cruelty to Animals Ordinance, such
direction shall not be inconsistent with any order
made by the Minister¹ under section 11 of the said
Ordinance ;

Provided further that the Minister¹ may, by Order¹
for that purpose published in the Gazette, direct that the
provisions of this section shall, for a period to be
specified in such Order,¹ cease to be operative within
the jurisdiction of any particular court in respect of
all or any of the offences under the Prevention of
Cruelty to Animals Ordinance.

3. All awards which are made under the last
preceding section to a headman appointed in writing
by the Government Agent or the Assistant Government
Agent shall be paid into a general fund for the reward
of such headmen to be regulated in manner as the
Minister¹ shall from time to time direct.

Awards to
headmen
paid into
Reward Fund.

4. The Minister of Justice¹ by Order¹ for that purpose
published in the Gazette, may extend the provisions
of section 2 hereof to any enactment now in force or
hereafter to be enacted.

Power of
Minister of
Justice to
extend
provisions of
Ordinance.

[Section 2.]

SCHEDULE

SUBJECT	ENACTMENT
Betting on Horse Racing	The Betting on Horse Racing Ordinance
Butchers ..	The Butchers Ordinance
Brothels ..	The Brothels Ordinance
Coastwise Passenger Traffic	The Coastwise Passenger Traffic Ordinance
Contagious Diseases	The Contagious Diseases Ordinance
Cruelty to Animals ..	The Prevention of Cruelty to Animals Ordinance
Dog Registration ..	The Dog Registration Ordinance
Excise ..	The Excise Ordinance
Explosives ..	The Explosives Ordinance
Food Control ..	The Food Control Act
Forests ..	The Forest Ordinance
Guides ..	The Guides Ordinance
Immigrants and Emigrants	The Immigrants and Emigrants Act
Intermeddlers with Suitors	The Intermeddlers with Suitors Ordinance
Knives ..	The Knives Ordinance
Liquor (taking of on board Her Majesty's ships)	The Liquor (On Board Her Majesty's Ships) Regulation Ordinance
Manufacture of Matches	The Manufacture of Matches (Regulation) Ordinance
Masters Attendant ..	The Masters Attendant Ordinance
Passenger Traffic to India	The Passenger Ships Ordinance
Pawnbrokers ..	The Pawnbrokers Ordinance
Pearl Fisheries ..	The Pearl Fisheries Ordinance
Petroleum ..	The Petroleum Ordinance
Penal Code ..	The Penal Code, sections 257 to 260
Plant Protection ..	The Plant Protection Ordinance
Poisons and Drugs ..	The Poisons, Opium and Dangerous Drugs Ordinance
Police ..	The Police Ordinance
Price Control ..	The Price Control Act
Protection of Produce	The Protection of Produce Ordinance
Public Performances	The Public Performances Ordinance
Quarantine ..	The Quarantine and Prevention of Diseases Ordinance
Rubber Thefts ..	The Rubber Control Act (Part III)
Seashore Protection	The Crown Lands Ordinance (Part VIII)
Stamps ..	The Stamp Ordinance
Tea Thefts ..	The Tea Thefts Prevention Act
Thoroughfares ..	The Thoroughfares Ordinance
Water Hyacinth ..	The Water Hyacinth Ordinance
Weights and Measures	The Weights and Measures Ordinance
Wells and Pits ..	The Wells and Pits Ordinance

CHAPTER 29

INTERMEDDLERS WITH SUITORS

AN ORDINANCE TO PROVIDE FOR THE SUPPRESSION OF INTER-MEDDLERS WITH SUITORS IN COURTS OF JUSTICE.

Ordinances
Nos. 11 of 1894,
35 of 1917.

[5th December, 1894.]

1. This Ordinance may be cited as the Intermeddlers with Suitors Ordinance.

Short title.

2. Any person who—

Offences
under this
Ordinance.

(a) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured him employment as such legal practitioner ;

(b) retains any gratification, or withholds without just cause a portion, out of remuneration entrusted to be paid to any legal practitioner for such employment ;

(c) not being authorized under any law to practise in any court, solicits or receives from any person any gratification in consideration of procuring or having procured the employment of a legal practitioner as such ;

(d) being a legal practitioner, tenders or gives any gratification, or consents to the retention of any gratification, for procuring or having procured the employment as such practitioner of himself or any other legal practitioner,

shall be guilty of an offence, and shall on conviction be punished with a fine not exceeding five hundred rupees.

3. Any legal practitioner who shall be convicted of any offence under this Ordinance shall be liable to be removed or suspended from office by the Judges of the Supreme Court, on the motion of the Attorney-General or Solicitor-General.

Legal
practitioner
convicted
under this
Ordinance
liable to be
removed
from office.

Proceedings
in court in
regard to
offences.

4. It shall be competent to any person to prefer to a Magistrate's Court a complaint or report that an offence under section 2 of this Ordinance has been committed within the territorial jurisdiction of such court, when such court shall proceed with the inquiry as provided in Chapter XVI of the Criminal Procedure Code, and shall in due course forward the proceedings taken in the case to the Attorney-General, whereupon the Attorney-General may, in his discretion, direct the accused to be either discharged or committed for trial before any District Court having jurisdiction, or may make any other order as provided in Chapter XXXV of the Criminal Procedure Code.

Accosting
without
proper excuse
persons
having
business
actual or
prospective
in courts
an offence.

5. Any person who, without proper excuse, the proof whereof shall lie on him, accosts, or attempts by words, signs, or otherwise to meddle with, any suitor or other person having business, actual or prospective, in any court, with respect to his suit or business, shall be guilty of an offence, and be liable on conviction to be punished with a fine not exceeding one hundred rupees.

Accused may
give evidence
on his own
behalf.

6. Any person charged with any offence under this Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

Interpretation.

7. In this Ordinance, unless there be something repugnant in the subject or context—

“court” means the Supreme Court, any District Court, Court of Requests, Magistrate's Court, or Court of a Municipal Magistrate ;

“legal practitioner” means an advocate or proctor or any person authorized by any law for the time being to practise in any court of Ceylon.

CHAPTER 30

OBSCENE PUBLICATIONS

AN ORDINANCE RELATING TO OBSCENE PUBLICATIONS.

Ordinance
No. 4 of 1927.

[1st August, 1927.]

1. This Ordinance may be cited as the Obscene Publications Ordinance. Short title.

2. It shall be an offence against this Ordinance punishable on conviction by a Magistrate with a fine not exceeding one thousand rupees or imprisonment of either description for any period not exceeding three months, or with both such fine and imprisonment to do any of the following acts, namely :—

Offences relating to obscene publications.

- (a) for purposes of or by way of trade or for distribution or public exhibition to make or produce or have in possession obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, or any other obscene objects ;
- (b) for the purposes above mentioned to import convey, or export or cause to be imported conveyed, or exported any of the said obscene matters or things, or in any manner whatsoever to put them into circulation ;
- (c) to carry on or take part in a business, whether public or private, concerned with any of the said obscene matters or things, or to deal in the said matters or things in any manner whatsoever, or to distribute them or to exhibit them publicly or to make a business of lending them ;
- (d) to advertise or make known by any means whatsoever, in view of assisting in the said punishable circulation or traffic, that a person is engaged in any of the above punishable

acts, or to advertise or to make known how or from whom the said obscene matters or things can be procured either directly or indirectly.

Abetment of offences.

3. (1) Any person who abets the commission of an offence against this Ordinance shall be deemed to be guilty of the same offence.

(2) Any person who in Ceylon aids, abets, counsels, or procures the commission in any place outside Ceylon of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act which if committed in Ceylon would constitute an offence against this Ordinance, shall be deemed to have committed an offence against this Ordinance and shall be punishable accordingly.

(3) The expression "corresponding law" in this Ordinance means any law stated in a certificate purporting to be issued by or on behalf of the Government of any country outside Ceylon to be a law providing for the suppression of the circulation of and traffic in obscene publications in accordance with the provisions of the International Convention for that purpose signed at Geneva on the 12th day of September, 1923, and any statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive.

Saving of provision of Penal Code.

4. Nothing in this Ordinance shall affect or prevent a prosecution under the Penal Code or any other written law ; but a person shall not be punished more than once for the same offence.

CHAPTER 31

BROTHELS

AN ORDINANCE TO PROVIDE FOR THE SUPPRESSION OF
BROTHELS.

Ordinances
Nos. 5 of 1889,
21 of 1919,
42 of 1943.

[28th June, 1889.]

1. This Ordinance may be cited as the Brothels
Ordinance.

Short title.

2. Any person who—

Offences.

(a) keeps or manages or acts or assists in the
management of a brothel ; or

(b) being the tenant, lessee, occupier or owner of
any premises, knowingly permits such premises
or any part thereof to be used as a brothel,
or for the purpose of habitual prostitution ; or

[§ 2, 42 of 1943.]

(c) being the lessor or landlord of any premises, or
the agent of such lessor or landlord, lets the
same, or any part thereof, with the knowledge
that such premises or some part thereof are or
is to be used as a brothel, or is wilfully a party
to the continued use of such premises or any
part thereof as a brothel,

shall be guilty of an offence, and shall on conviction
be liable—

(i) to a penalty not exceeding five hundred rupees,
or, in the discretion of the court, to simple or
rigorous imprisonment for a term not exceed-
ing six months, or to both such fine and
imprisonment ;

Penalties.

(ii) on a second or subsequent conviction, to a
penalty not exceeding one thousand rupees, or,
in the discretion of the court, to simple or

rigorous imprisonment for a term not exceeding one year, or to both such fine and imprisonment,

and in the case of any conviction under this section, such person may, in addition to any such penalty or imprisonment as may be imposed by the court, be required by the court to enter into a recognizance, with or without sureties as to the court seems meet, to be of good behaviour for any period not exceeding twelve months; and in default of entering into such a recognizance, with or without sureties (as the case may be), such person may be sentenced to simple or rigorous imprisonment for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

Who shall be deemed keeper or manager of a brothel.

3. Any person who shall appear, act, or behave as master or mistress, or as the person having the care, government, or management of any brothel, shall be deemed and taken to be the keeper or manager thereof, and shall be liable to be prosecuted and punished as such, notwithstanding that he or she shall not in fact be the real keeper or manager thereof.

Power of court to terminate tenancy.

4. (1) Upon the conviction of the tenant, lessee, or occupier of any premises of any offence under this Ordinance, it shall be lawful for the court, on the application either of the prosecuting party, or of the owner, or lessor, or, if it so thinks fit, of its own motion, to declare that the tenancy or occupation of the said premises under the lease or agreement under which the same are held or occupied shall be terminated from such date and subject to such conditions as may be defined in the order of the court, and may by the same or a further order direct that the possession of the said premises shall be delivered to any person entitled to the possession thereof as from any date specified in the order.

(2) In the event of any owner or lessor of any premises failing to exercise his right of application to the court under this section, and of the tenant, lessee, or occupier so convicted being subsequently convicted of an offence under this Ordinance in respect of the

same premises, such landlord or lessor shall be deemed to have knowingly abetted the said offence, and shall be liable to be prosecuted and punished accordingly, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

5. All offences under this Ordinance shall be “non-cognizable” and “bailable” within the meaning of those terms as defined in the Criminal Procedure Code and shall be tried in the Magistrate’s Court, which is hereby empowered to award all or any of the punishments herein before provided, anything in section 15 of the said Code to the contrary notwithstanding.

Offences
triable by
Magistrate’s
Court and to
be non-
cognizable
and bailable.

CHAPTER 32

VAGRANTS

Ordinances

Nos. 4 of 1841,
7 of 1873,
7 of 1889,
17 of 1889,
19 of 1889,
12 of 1891,
3 of 1894,
3 of 1904,
21 of 1919,
3 of 1930,
51 of 1941,
20 of 1947.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW
RELATING TO VAGRANTS.

[1st January, 1842.]

Short title.

1. This Ordinance may be cited as the Vagrants Ordinance.

Punishment
of persons
behaving
riotously or
disorderly in
the public
streets.

2. Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine not exceeding five rupees :

Provided nevertheless that every person convicted four times of such conduct shall, for every subsequent offence, be punishable in the manner declared in the following section respecting idle and disorderly persons.

Persons who
are deemed
idle and
disorderly
persons.

3. (1) (a) Every person being able to maintain himself by work or other means, but who shall wilfully refuse or neglect so to do, and shall wander abroad or place himself in any public place, street, highway, court, or passage to beg or gather alms, or cause, or procure, or encourage any of his family so to do, excepting priests and pilgrims in performance of their religious vows, not being mendicants of the description mentioned in the paragraph (d) of the next succeeding section ;
- (b) every common prostitute wandering in the public street or highway, or in any place of public resort, and behaving in a riotous or indecent manner ;

- (c) every person wandering abroad or lodging in any verandah, outhouse, shed, or unoccupied building, or in any cart, vehicle, or other receptacle, without leave of the owner thereof, and not having any visible means of subsistence, and not giving a good account of himself ;
- (d) every person, without leave of the owner, defacing the side of any house or building or wall by fixing any placard or notice, or by any indecent or insulting writing or drawing thereon ;
- (e) every person who in or upon any wharf, jetty, street, road, walk, passage, verandah, or other place situated within any proclaimed area and used by or accessible to the public, persistently and without lawful excuse follows, accosts, or addresses by words or signs any person against his will and to his annoyance,

[§ 2, 51 of 1941.]

shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees.

(2) A police officer may arrest without a warrant every person deemed to be an idle and disorderly person.

(3) In this section, "proclaimed area" means any area declared by the Minister by Order¹ published in the Gazette, to be a proclaimed area for the purposes of this section.

[§ 2, 51 of 1941.]

4. (a) Every person convicted a second time of being idle and disorderly ;
- (b) every idle and disorderly person resisting any constable or police officer apprehending him ;
- (c) every person wilfully exposing his person in an indecent manner, or exhibiting any obscene print, picture, or other indecent exhibition, in any street, road, highway, or public place or elsewhere, to the annoyance and disgust of others ;
- (d) every person wandering abroad, or placing himself in any public place, street, highway, court,

Who are
deemed to be
rogues and
vagabonds.

or passage, and endeavouring by the exposure of any wounds, deformities, leprosy, or loathsome diseases to obtain or gather alms ;

- (e) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions for himself or others, of any nature or kind, under any false or fraudulent pretences,

shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance, and shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, or to a fine not exceeding twenty rupees.

Who are deemed to be incorrigible rogues.

- 5. (a) Every person convicted a third time or more often of being idle and disorderly ; or
- (b) a second time or more often of being a rogue and vagabond ; and
- (c) every person escaping out of any place of legal confinement before the expiration of the term for which he shall have been committed under this Ordinance,

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable to imprisonment at hard labour for any period not exceeding four months, and to corporal punishment not exceeding twenty-four lashes.

Incorrigible rogue may be required to give security for future good behaviour.

6. Every person convicted as an incorrigible rogue may, in addition to any punishment imposed by the preceding section be required also to give security for his good behaviour for one year after his discharge, and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months.

Soliciting and acts of indecency in public places.

7. (1) The following persons, that is to say—

- (a) any person in or about any public place soliciting any person for the purpose of the commission of any act of illicit sexual intercourse or indecency, whether with the person soliciting or with any other person, whether specified or not ;

(b) any person found committing any act of gross indecency, or found behaving with gross indecency, in or about any public place ;

(c) any person found—

(i) in any public enclosure contrary to any local by-laws or regulations prescribing the use of such enclosures ; or

(ii) in any enclosure belonging to the Crown, without the permission of the person in charge thereof ; or

(iii) within any private enclosure attached to any dwelling house, except upon the invitation of any inmate of the premises,

under such circumstances that it is reasonable to infer that he is there present for immoral purposes, unless he is able to explain his presence to the satisfaction of the court by which he is tried,

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

(2) In any case in which any person who has been convicted of an offence under paragraph (a) of the last preceding subsection shall subsequently be convicted of another such offence, he shall, if a male, in addition to any other punishment to which he may be sentenced by the court, be liable, at the discretion of the court to be whipped.

8. In any case in which the offender against any of the provisions, whether of the last preceding section or any other preceding section of this Ordinance, is a female, the court may in its discretion direct, both in respect of any imprisonment to which she may be sentenced in the first instance and in respect of any imprisonment to which she may be sentenced in default of payment of a fine, that, instead of being imprisoned in one of the regular prisons of Ceylon, she shall be committed to any house of detention established under the Houses of Detention Ordinance, and there detained

Female offender may be committed to house of detention.

until the expiration of her sentence, and sections 5 and 6 of the said Ordinance shall apply to every such person so detained.

Punishment
of certain
classes of
incorrigible
rogues.

9. (1) Any person who—

- (a) knowingly lives wholly or in part on the earnings of prostitution ;
- (b) systematically procures persons for the purpose of illicit or unnatural intercourse,

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable—

- (i) on summary conviction to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one hundred rupees, or to both ; or
- (ii) on conviction on indictment to imprisonment of either description for a period not exceeding two years, and if a male, in addition to any such imprisonment, if the court in its discretion directs, to be whipped.

(2) Every male person who is proved to live with, or to be habitually in the company of, a prostitute, and every person, whether male or female, who is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he or she is aiding, abetting, or compelling the prostitution of such person with any other person or generally, shall, unless the court is satisfied by evidence to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Detention of
youthful bad
characters.

10. (1) In the following cases, that is to say :—

- (a) where any person being a male between the ages of twelve and twenty-one has been convicted by a Magistrate of any offence under sections 3 (1) (e), 7, or 9 ;
- (b) where a Magistrate is satisfied that any person within the local limits of his jurisdiction, being a male between the ages aforesaid, is found habitually wandering about the streets and

accosting persons therein, or in the company of disorderly or immoral persons or of reputed criminals, and that such person has no regular occupation, or no other occupation than that of professing to render casual services to persons requiring them,

it shall be lawful to the Magistrate, after due inquiry into the antecedents, connections, and habits of such person, if he is satisfied that the offender is addicted to unnatural vice, or is otherwise of corrupt or immoral habits, either—

- (i) to require such person to execute a bond, with or without sureties, to the satisfaction of the Magistrate, to be of good behaviour for a period not exceeding twelve months, and subject to such conditions as the Magistrate may determine, and in default thereof, to commit such person to prison for a period not exceeding six months, there to be detained and employed at such productive labour as may be prescribed by prison rules ; or
- (ii) if after due inquiry into all the circumstances of the case, the Magistrate is satisfied that the offender is a person who ought not to be allowed the option of giving security for good behaviour, or that he can be more appropriately and beneficially dealt with in manner hereinafter provided, to commit such person, if he is under sixteen years of age, to an approved school within the meaning of the Children and Young Persons Ordinance, or if he is over that age, to any institution established by law for the reclamation and industrial training of juvenile offenders, there to be detained for a period of not less than three years.

(2) If any such person is not already in custody, the Magistrate may enforce his attendance either by summons or warrant, as he may think fit.

(3) The Magistrate may direct the detention of any person so brought before him for the purpose of necessary inquiries, and may, if he shall so think fit direct a medical examination of such person.

(4) The Magistrate may at any time direct any person committed to prison under this section in default of finding satisfactory sureties to be released from prison on such sureties being forthcoming.

(5) The Minister¹ may at any time direct that any person committed to an approved or certified school shall be transferred to any institution established by law for the reclamation and industrial training of juvenile offenders, or direct the release of any person detained either in such school or institution.

(6) When a Magistrate makes an order under subsection (1) (ii) of this section, the proceedings shall be submitted to the Supreme Court, and the order shall not be executed unless it is confirmed by a Judge of the Supreme Court.

(7) If, when such proceedings are submitted, the Judge thinks that a further inquiry should be made, or additional evidence taken upon any point, he may make such inquiry or take such evidence himself, or direct it to be taken by the Magistrate. Unless the Judge otherwise directs, the presence of the convicted persons may be dispensed with when such inquiry is made, or such evidence is taken.

(8) When the inquiry and the evidence, if any, are not made and taken by the Judge of the Supreme Court, the result of such inquiry and the evidence shall be certified to such Judge.

(9) In any case so submitted to the Supreme Court, the Judge—

- (a) may confirm the sentence, or pass any other sentence justified by law ; or
- (b) may allow the conviction and convict the accused of any offence of which the Magistrate might have convicted him, or order a new trial on any other charge or on an amended charge ; or
- (c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or if an appeal is presented within such period, until such appeal is disposed of.

(10) This section shall apply only within such defined areas as shall be specially appointed by the Minister¹ by Order¹ published in the Gazette.

11. (1) Every person, having the custody, charge, or care of a girl, who causes or encourages the seduction or prostitution or unlawful carnal knowledge of the said girl, shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

Causing, &c., the seduction or prostitution or unlawful carnal knowledge of a girl.

(2) Without prejudice to the generality of subsection (1), a person shall, for the purposes of this section, be deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or become a prostitute or been unlawfully carnally known, if he has knowingly allowed the girl to associate with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) No person shall be liable to conviction under this section who as parent or guardian has given his consent to a girl living with any man as his wife.

12. (1) Where it is shown to the satisfaction of a Magistrate on the complaint of any peace officer at the instance of any probation officer that any girl is with the knowledge of her parent or guardian exposed to the risk of seduction or prostitution, or of being unlawfully carnally known, or is living a life of prostitution, the Magistrate may require the parent or guardian of such girl to show cause why he should not be ordered to execute a bond with or without sureties for the exercise of due care and supervision in respect of the girl.

Security by parent or guardian of girl.

(2) For the purposes of this section, a Magistrate shall have all the powers which are conferred on a Magistrate by sections 84 to 93, both inclusive, 96, and 98 of the Criminal Procedure Code, in relation to

securities for keeping the peace and for good behaviour and those sections shall apply, *mutatis mutandis*, to bonds executed or ordered to be executed under this section.

(3) Imprisonment for failure to execute a bond on the order of a Magistrate under this section shall be simple.

(4) No person shall be liable to execute a bond under the provisions of this section who as parent or guardian has given his consent to a girl living with any man as his wife.

(5) Where any girl, in respect of whom any person has been ordered to execute a bond under this section is removed for any period from the custody, care, or charge of such person under sections 13, 14, or 17, no action shall be taken to enforce the bond during the period of such removal, and if at any time thereafter the girl shall be restored to the custody, care, or charge of such person, the said bond shall remain of full force and effect.

Detention of
girl in place
of safety.

13. (1) Any peace officer may, on the complaint of a probation officer, remove to a place of safety to be selected by such probation officer any girl in respect of whom an offence under section 11 has been, or is reasonably believed by him to have been, committed.

(2) Any girl so removed to a place of safety may be there detained for a period not exceeding seven days, unless before the expiry of that time it has been decided that no charge will be made in respect of the said offence, in which case the girl shall be released on such decision being reached, but otherwise she shall be brought before a Magistrate before the expiry of the said seven days and may be detained in the said place of safety until the Magistrate has made an order in relation to the girl under the next subsection.

(3) (a) Where it appears to a Magistrate that an offence has been committed under section 11 in respect of any girl who is brought before him and that it is expedient in the interests of the girl that an order should be made for her care and detention, he may, without prejudice to any other power, make such order

as the circumstances may require for the care and detention of the girl until a charge has been made against some person in respect of the offence ;

(b) If any such charge is made against any person, the order may be extended until the charge has been determined by the conviction or discharge of the person charged, and

(i) in the case of his conviction, it may be further extended for a period not exceeding twenty-one days as the convicting Magistrate may direct ; and

(ii) in the case of his discharge, it shall be forthwith void except with regard to anything lawfully done thereunder.

(c) Any such order as is mentioned in subsections (2), (3) (a), or (3) (b) may be carried out notwithstanding that any person claims the custody of the girl.

14. (1) When any person having the custody, charge, or care of any girl has been—

Disposal of girl by order of court.

(a) convicted of an offence under section 11 in respect of the girl ; or

(b) ordered to execute a bond in respect of the girl under section 12,

by a Magistrate, the Magistrate may, in his discretion, order that the girl be taken out of the custody, care, or charge of the person so convicted or bound over, and be delivered into the custody of a relative of the girl or some other fit person or society, approved and named by the Magistrate, until she attains the age of sixteen years or for any shorter period.

(2) Before any such order is made, the consent and ability of such relative or other person or society to undertake such custody shall be proved to the satisfaction of the Magistrate.

(3) Any such order may be from time to time renewed, varied, or revoked by the Magistrate who

made the same, or by any other Magistrate within whose jurisdiction the girl resides, either of his own motion or on the application of any person.

(4) If the girl has a parent or legal guardian, no order shall be made under this section unless the parent or legal guardian—

- (a) has been convicted of the offence ; or
- (b) is proved to the satisfaction of the Magistrate making the order to have been party or privy to the offence ; or
- (c) has been ordered to execute a bond in respect of the girl under section 12 ; or
- (d) cannot be found.

(5) Every order under this section shall be in writing, and may be made in the absence of the girl.

(6) The Minister¹ may at any time discharge any girl from the custody of any person or society into whose custody she has been delivered under this section either absolutely or on such conditions as he may approve.

(7) It shall be lawful for the Minister¹ to make rules in relation to girls delivered into the custody of any person or society under this section, and to the maintenance of such girls, and to the duties of such persons or societies with respect to such girls.

(8) All rules made under this Ordinance shall be laid, as soon as conveniently may be, on the table of the Senate and the House of Representatives¹ at two successive meetings of the Senate and the House of Representatives¹ and shall be brought before the Senate and the House of Representatives¹ at the next subsequent meeting held thereafter by a motion that the said rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are disapproved by the Senate or the House of Representatives¹ such rules shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder ; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

15. (1) Any person or society into whose custody a girl is delivered by order under section 14 shall, whilst the order is in force, have the like control over the girl as if such person or society were the parent of the girl, and shall be responsible for the maintenance of the girl, who shall continue to be in custody of such person or society notwithstanding that she is claimed by her parent or any other person.

Control and maintenance of girl delivered into custody of any person or society by order of court.

(2) Every person who—

- (a) knowingly assists or induces, directly or indirectly, any girl to escape from the person or society into whose custody she has been so delivered ; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or society, any girl who has so escaped, or knowingly assists any such harbouring, concealment, or prevention,

shall on summary conviction thereof be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for any term not exceeding three months.

(3) On the complaint or application of the person or society into whose custody any girl has been delivered by order under section 14, the Magistrate making the order of delivery may make a further order on the parent or other person liable to maintain the girl to contribute any specified sum not exceeding fifteen rupees a month for that purpose, and to pay the same in such manner as the Magistrate may direct to the person or society into whose custody the girl is delivered.

(4) Every such order of maintenance shall be in writing and shall be enforceable in like manner as if the girl had been ordered to be sent to an approved or certified school under the Children and Young Persons Ordinance, and also by a further order for the attachment and payment to the person named by the Magistrate of any pension or income due to the parent or other person liable to maintain the girl, including any pension or income due to him from the Crown. Such further order shall be a full authority to the person

by whom such pension or other income is payable to make the payment ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first-mentioned person.

Offences to be non-cognizable and bailable.

16. Offences under sections 11 and 15 of this Ordinance shall be deemed non-cognizable and bailable within the meaning of the Criminal Procedure Code.

Search warrant.

17. (1) If it appears to a Magistrate on information on oath laid by any probation officer that there is reasonable cause to suspect that an offence has been or is being committed in respect of any girl, he may issue a warrant authorizing all or any peace officers to search for such girl, and if it is found that an offence has been or is being committed in respect of her, to take her to and detain her for a period not exceeding seven days in a place of safety selected by the said probation officer and named in the warrant until she can be brought before a Magistrate.

(2) Any peace officer authorized by warrant under this section to search for any girl may enter (if need be by force) any house, building, or other place specified in the warrant and may remove the girl therefrom.

(3) It shall not be necessary in any information or warrant under this section to specify the name of the girl.

Sanction of Attorney-General for prosecution, &c.

18. No prosecution shall be instituted for an offence against section 11, and no complaint shall be made under section 12, without the sanction of the Attorney-General in writing.

Protection of peace officers and probation officers.

19. No proceedings civil or criminal shall be instituted against any peace officer or probation officer for any act bona fide done or omitted to be done in pursuance of any of the powers or duties conferred or imposed upon him by this Ordinance.

Officers neglecting their duty.

20. In case any principal or other headman, constable, or other peace officer aforesaid shall neglect his duty in anything required of him by this Ordinance, he shall be liable for every such offence to a fine not exceeding

fifty rupees, or to imprisonment not exceeding two calendar months, with or without hard labour, at the discretion of the court.

21. In case any person shall hinder, disturb, or molest any principal or other headman, constable, or other peace officer in the execution of this Ordinance, or shall be aiding, abetting, or assisting therein, or shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any rogue and vagabond, and shall be thereof convicted, every such offender shall, for every such offence, be liable to a fine not exceeding thirty rupees, or to imprisonment with or without hard labour for any period not exceeding four months ; and

Persons obstructing officers.

every person who shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any incorrigible rogue, shall be liable to a fine not exceeding fifty rupees or to imprisonment for any period not exceeding six months with or without hard labour.

22. All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender, and in default of payment every such offender shall be imprisoned at hard labour for the space of one month for every ten rupees of such fine which shall remain unsatisfied, and in like proportion for every lesser sum, provided that such imprisonment on any one conviction shall never exceed the term of twelve months ; and it shall also be lawful for any court before whom any such offender may be convicted to order, at its discretion, the whole or any part of such fine or penalty, when recovered, to be paid over or applied to the use and benefit of the persons who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

Fines to be levied by distress.

Informer's share.

23. No prosecution shall be instituted against any person for offences under sections 2, 3, 4, 5, 6, 20, and 21 of this Ordinance after the expiration of one calendar month next subsequent to the date of the offence.

No prosecution to be instituted after one month.

Sworn
statement by
person
leaving
Ceylon.

[§ 3, 51 of 1941.]

24. (1) A sworn statement made by a person about to leave Ceylon before—

- (a) a Justice of the Peace ; or
- (b) any police officer not below the rank of a sub-inspector ; or
- (c) the customs officer for the time being in charge of the Colombo passenger jetty, not being below the rank of a charges officer,

taken in the presence of the person accused under such circumstances that he has a full opportunity of asking questions of the person making the statement, and signed by such person, may, if the person making the statement has left Ceylon, be given in evidence against the person accused on any charge under section 3 (1) (e).

(2) It shall be the duty of the Justice of the Peace or other person before whom any such statement is made, before tendering it for the signature of the person making it, to read it over to such person in the presence of the accused, and to explain the statement to the accused, and upon it being signed by the person making it, to certify that the requirements of this section have been complied with.

(3) A statement produced in court and purporting to be certified under this section shall be prima facie evidence of the facts therein stated ; but the court may require the attendance of any person present when such statement was taken, for the purpose of examination with respect thereto.

Interpretation.

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

- (a) “girl” means a girl under the age of sixteen years ;
- (b) “guardian”, in relation to a girl, includes any person who, in the opinion of the court having cognizance of any case or matter relating to the girl, has for the time being charge of or control over the girl ;

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- (c) "legal guardian", in relation to a girl, means a person appointed according to law to be her guardian by deed or will or by order of a court of competent jurisdiction ;
 - (d) "peace officer" includes police officers and headmen appointed by a Government Agent in writing to perform police duties ;
 - (e) "place of safety" means any hospital, institute, house, home, or other suitable place, the occupier of which is in the opinion of the probation officer after due inquiry a person of respectable character, and is willing to receive a girl temporarily ;
 - (f) "probation officer" means any person appointed to be a probation officer under the provisions of the Probation of Offenders Ordinance.

[§ 2, 20 of 1947.]

CHAPTER 33

HOUSES OF DETENTION

Ordinances
Nos. 5 of 1907,
21 of 1930,
Act
No. 26 of 1955.

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF
HOUSES OF DETENTION FOR VAGRANTS.

[20th May, 1907.]

Short title.

1. This Ordinance may be cited as the Houses of
Detention Ordinance.

Interpretation.

2. In this Ordinance the word "vagrant" means—

- (a) any person found asking for alms ;
- (b) any person not being physically able to earn, or
being unwilling to work for, his own livelihood
and having no visible means of subsistence :

Provided that priests or pilgrims gathering alms or
failing to work for their livelihood shall not be deemed
vagrants, if the gathering of alms is prescribed by their
religion or order, or is in performance of any religious
vow or obligation, or if they are prohibited by their
religion or order or by any such vow or obligation as
aforesaid from working for their own livelihood.

Power of
Minister to
establish
houses of
detention.

3. (1) It shall be lawful for the Minister¹ to provide
houses of detention at such places as he shall think
proper within Ceylon for the reception of vagrants.

(2) ¹ There shall be appointed from time to time such
superintendents and medical and other officers as may
be necessary for the management of such houses of
detention. The appointments, transfers and discipline
of such officers and their removal from office when
necessary shall be governed by the appropriate Public
Service Commission Rules.

(3) Every such superintendent and officer shall be
deemed to be a public servant within the meaning of the
Penal Code.

4. (1) When any person has been convicted of any offence by a Magistrate's Court under its summary jurisdiction, or when any person appears or is brought before such court under the provisions of section 10, if after due inquiry the Magistrate is of opinion that the person so convicted or appearing or brought before the court is a vagrant within the meaning of this Ordinance, he may, in addition to or in substitution for any punishment which he has power to inflict, order such person to be detained in a house of detention. Any such order shall declare that the person against whom it is made is a vagrant, and shall also, if practicable, state any prior date from which, in the opinion of the Magistrate, such person has been in Ceylon a vagrant as defined by this Ordinance. Such order shall be a sufficient authority to the police for keeping in custody such person on the way to the house of detention and to the superintendent for receiving and detaining him there.

Detention of vagrants on order of a Magistrate's Court.

(2) Every person detained in a house of detention under this section shall be detained until he avails himself of suitable employment found for him, or until he is removed or discharged as hereinafter mentioned.

(3) Every person so detained shall be put to any labour of which the medical officer shall certify him to be capable.

5. Any person detained in a house of detention may, if the medical officer considers it necessary, be sent to a hospital or other suitable place for treatment; but shall be deemed while in such hospital or other place to be still an inmate of the house of detention.

Persons detained may be sent to hospital.

6. (1) It shall be lawful for the Minister¹ from time to time to make regulations for the management of houses of detention. Such regulations may provide among other things for—

Regulations for management of houses of detention.

- (a) the search of the person and clothing of any person admitted to the house ;
- (b) the custody or destruction of the clothing and effects of the inmates ;
- (c) their diet, dress, and accommodation ;
- (d) personal cleanliness, hours, meals, labour, and general conduct ;

(e) recording particulars for the future identification of inmates ;

(f) their discharge.

(2) The Minister¹ may prescribe punishments for disobedience to such regulations to be inflicted by the superintendent not exceeding one week's confinement, or one week's reduced diet (the nature of such confinement and of such reduced diet to be prescribed by the regulations), or both such punishments.

Superintendent to endeavour to find employment for vagrants.

7. The superintendent of any house of detention shall use his best endeavours to obtain suitable employment outside the house for the vagrants admitted thereto.

Agreements to leave Ceylon.

8. (1) Any vagrant detained in a house of detention may enter into an agreement in writing with the Permanent Secretary to the Ministry,¹ binding himself to embark on such ship and at such time as the superintendent of the house of detention may direct, for the purpose of being removed from Ceylon at the expense (if any) of the Government of Ceylon, and not to return to Ceylon within five years without the permission of the Minister.¹

(2) Every such agreement shall be exempt from stamp duty, and shall be in the form in the Schedule or to a like effect.

Enforcement of agreement.

(3) When a vagrant has entered into such agreement, unless in the opinion of the superintendent of the house of detention suitable employment is likely to be speedily found for such vagrant, the superintendent may enforce such agreement and cause such vagrant to be removed from Ceylon, and if he deems it desirable may call in the assistance of the police to place such vagrant on board ship, and such vagrant may be detained on board, and shall be deemed in lawful custody while the ship is within the jurisdiction of Ceylon.

Removal of vagrants from Ceylon.

9. (1) If within a reasonable time not exceeding three months from the date when he was committed to such house a vagrant who is not a British subject born in Ceylon has refused or neglected either to avail

himself of suitable employment found for him or to enter into such agreement as herein before mentioned, the Governor-General³ may order him to be repatriated, and he shall be repatriated accordingly ; and any person returning to Ceylon after having been repatriated under this Ordinance shall be guilty of an offence, and shall be liable on conviction thereof to imprisonment of either description for a term not exceeding six months.

(2) The Minister¹ may at any time order any person detained in a house of detention to be discharged.

Discharge of
vagrants.

10. Any person who, being apparently a vagrant, refuses or fails to accompany a police officer, or to appear before a Magistrate's Court when required to do so, for the purposes of this Ordinance, may be arrested without warrant, and shall on conviction before a Magistrate's Court be liable to imprisonment of either description for any term not exceeding three months.

Arrest
without
warrant of
vagrant
refusing to
appear before
Magistrate's
Court.

11. (1) An officer appointed for the purposes of this Ordinance may arrest without a warrant any person who escapes from a house of detention in which he is detained. The provisions of sections 24, 25 and 27 of the Criminal Procedure Code shall apply to an arrest made under the preceding provisions of this subsection, although the person making the arrest is not acting under a warrant and is not a peace officer having authority to arrest.

Power to
arrest persons
escaping
from houses
of detention.
[§ 2, 26 of 1955.]

(2) Where a person is arrested under the provisions of subsection (1) of this section, the officer arresting that person shall take him back to the house of detention from which he escaped and, in case such officer is a person other than the superintendent of that house, such officer shall hand him over to the superintendent.

12. Any vagrant who escapes from the police while committed to their charge under this Ordinance, or who leaves a house of detention without permission of the superintendent, or who, having with such permission left a house of detention for a limited time or a specified purpose, fails to return at the expiration of such time or when such purpose has been accomplished or proves

Penalty on
vagrant for
escape.

to be impracticable, shall on conviction before a Magistrate's Court be liable to imprisonment of either description for any term not exceeding three months.

Saving of prosecutions under the Vagrants Ordinance.

13. Nothing contained in this Ordinance shall be construed to prevent the prosecution of any person for any offence punishable under the Vagrants Ordinance.

[Section 8
(2).]

SCHEDULE

FORM OF AGREEMENT TO LEAVE CEYLON

Exempt from stamp duty.

Articles of agreement made this _____ day of _____, 19—, between the Permanent Secretary to the Ministry of _____¹ of the one part and A. B. of _____ (the vagrant) of the other part. Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

1. The said A. B. shall embark on board such ship and at such time as the superintendent of the house of detention shall direct.

* Here insert name of port to which A. B. agrees to go.

2. The said A. B. shall remain on board such ship until such ship shall have arrived at the port of _____.*

3. The said A. B. shall not return to Ceylon until five years shall have elapsed from the date of such embarkation, unless he shall be specially permitted to return by the Minister of _____.¹

4. The said Permanent Secretary to the Ministry of _____¹ shall contract with the owner of such ship or his agent for the passage of the said A. B. on board such ship and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof the said Permanent Secretary to the Ministry of _____¹ and the said A. B. have hereunto set their hands the day and year first above written.

Permanent Secretary to the Ministry of _____.¹
A. B.

CHAPTER 34

PROTECTION OF PRODUCE

AN ORDINANCE TO PROVIDE FOR THE PROTECTION OF PRODUCE.

Ordinances
Nos. 38 of 1917,
12 of 1945.

[17th November, 1917.]

1. This Ordinance may be cited as the Protection of Produce Ordinance.

Short title.

2. For the purposes of this Ordinance the following terms shall have the meanings hereby assigned to them :—

Interpretation.

“labourer” shall include all persons, except superintendents and assistant superintendents, temporarily or permanently employed on any plantation in any capacity, whether agricultural or menial or otherwise howsoever ;

“plantation” shall include any land of not less than ten acres in extent on which coffee, tea, cacao, cardamoms, rubber, or coconuts are growing ;

“produce” shall include any plant or tree of any of the descriptions referred to in the last preceding definition and the fruit, leaf, bark, root, stem, latex, or other portion of any such plant or tree, whether in a natural or manufactured state.

3. Every person found loitering or lurking about in a plantation, unless he can give a satisfactory reason to the Magistrate before whom he is tried for such loitering or lurking, shall be guilty of an offence, and shall be liable on conviction before such Magistrate to imprisonment of either description for any term not exceeding six weeks, or to a fine not exceeding twenty-five rupees.

Loitering
or lurking in
plantation to
be an offence.

Possessor of certain descriptions of produce to be deemed guilty of offence till contrary be shown.

4. Whenever anyone is found in possession of any of the following descriptions of produce, that is to say :—

- (a) any tea plant, tea stump, tea seed, or tea leaf (whether in a natural or manufactured state) ;
- (b) any rubber plant, rubber stump, or rubber seed ;
- (c) the fruit of the coffee plant ;
- (d) the fruit of the cardamom plant ;

under such circumstances that there is reason to suspect that the same is not honestly in his possession, and he is unable to give to the court before whom he is tried a satisfactory account of his possession thereof, such person shall be guilty of an offence, and shall be liable, on summary conviction before a Magistrate, to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding two hundred rupees, or to both ; and in the event of a second or subsequent offence shall be liable on conviction to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding five hundred rupees, or to both.

Restriction on purchase of produce.

5. (1) It shall not be lawful for anyone to purchase or take in barter or exchange or receive any produce from any labourer employed on any plantation, except under the written authority of the owner or other person for the time being in charge of the plantation.

(2) Any person committing a breach of the provisions of this section shall be guilty of an offence, and shall be liable on conviction before a Magistrate to rigorous or simple imprisonment for a period not exceeding six months, or to a fine not exceeding one hundred rupees.

Magistrates' Courts to have exclusive jurisdiction in respect of thefts of prædial produce in certain proclaimed districts.

6. In any district of Ceylon the Minister of Justice,¹ by Order notified in the Gazette, may direct that a Magistrate's Court shall have jurisdiction to try, or inquire into, any case in which the accused is charged with the theft of any produce, or of any particular description of produce, and which would otherwise be triable by a Rural Court under the Rural Courts Ordinance, and thereupon the said Magistrate's Court shall have exclusive jurisdiction to try, or inquire into, all such cases, anything in the said Ordinance to the contrary notwithstanding.

CHAPTER 35

TEA THEFTS

AN ACT TO MAKE PROVISION FOR THE PREVENTION OF THEFTS OF, AND FOR THE LICENSING OF DEALERS IN, MADE TEA, GREEN TEA LEAF, AND TEA SEED ; FOR THE CONTROL OF THE SALE AND USE OF REFUSE TEA ; AND FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

Act
No. 45 of 1953.

[Sections 1 to 3, 18, and 20 :—19th December, 1953.]

[Sections 4 to 17, and 19 :—1st July, 1954.]

1. This Act may be cited as the Tea Thefts Prevention Act.

Short title.

2. (1) The Controller may, upon application made in that behalf and upon payment of the prescribed fee, issue a dealer's licence under his hand authorizing any person to carry on the business of—

Issue,
revocation,
&c., of
dealers'
licences.

- (a) a dealer in made tea, or
- (b) a dealer in green tea leaf, or
- (c) a dealer in tea seed.

(2) The Controller may in his discretion—

- (a) refuse to issue a dealer's licence to any applicant or to renew any dealer's licence which has expired, or
- (b) revoke any dealer's licence which has already been issued.

(3) Any person who is aggrieved by the refusal of the Controller to issue or renew a dealer's licence or by the revocation of a dealer's licence may prefer a written appeal to the Minister against such refusal or revocation, and the Minister may confirm or reverse such refusal or revocation. The decision of the Minister on any such appeal shall be final and conclusive and shall not be subject to question or review in any court of law.

Provisions
relating to
dealers'
licences.

3. (1) Every dealer's licence shall—

- (a) be in the prescribed form and contain the prescribed particulars,
- (b) specify the business in respect of which the licence is issued and the premises (hereinafter referred to as "the licensed premises") in which such business is authorized to be carried on,
- (c) where the licence is intended to authorize two or more persons to carry on in partnership the business specified in the licence, specify the names and addresses of the partners and the style of the partnership, and
- (d) unless earlier revoked, expire on the thirty-first day of December of the year in respect of which the licence is issued.

(2) Where any person proposes to carry on the business of a dealer in made tea or green tea leaf or tea seed in two or more premises, a separate dealer's licence authorizing him to carry on such business shall be required in respect of each such premises.

(3) No dealer's licence shall be transferable and, where the person to whom a dealer's licence is issued dies, such licence shall not authorize the executor, administrator or other person administering the estate of the deceased to carry on the business specified in such licence.

Restrictions
as to sale,
purchase and
delivery of
made tea.

4. (1) No person other than a licensed dealer in made tea shall sell or deliver any made tea to any other person :

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to prohibit—

- (a) any manufacturer from selling or delivering any made tea manufactured by him—
 - (i) to a licensed dealer in made tea, or
 - (ii) to a retailer, in any quantity not exceeding such quantity as may be prescribed as the maximum quantity which may be sold to a retailer, or

- (iii) to any person, in any quantity not exceeding such quantity as may be prescribed as the maximum quantity which may be sold for consumption ; or
- (b) any manufacturer from delivering to the registered proprietor of any estate or small holding any made tea manufactured by him for that proprietor from green tea leaf which is the produce of that estate or holding ; or
- (c) the registered proprietor of any estate or small holding who is not a manufacturer from selling or delivering any made tea manufactured for him by a manufacturer from green tea leaf which is the produce of that estate or holding—
 - (i) to a licensed dealer in made tea, or
 - (ii) to a retailer, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of this proviso, or
 - (iii) to any person, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of this proviso ; or
- (d) any retailer from selling or delivering to any person any made tea in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of this proviso ; or
- (e) any person from delivering to any other person by way of gift any made tea in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of this proviso.

(2) No licensed dealer in made tea shall sell or deliver any made tea to any person other than a licensed dealer in made tea :

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to

prohibit any licensed dealer in made tea from selling or delivering any made tea—

- (a) to a retailer, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of the proviso to subsection (1), or
- (b) to any person, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of the proviso to subsection (1).

(3) No person other than a licensed dealer in made tea shall purchase or take delivery of any made tea from any other person :

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to prohibit—

- (a) the registered proprietor of any estate or small holding who is not a manufacturer from taking delivery of any made tea manufactured for him by a manufacturer from green tea leaf which is the produce of that estate or holding; or
- (b) any retailer from purchasing or taking delivery of any quantity of made tea not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of the proviso to subsection (1) ; or
- (c) any person from purchasing or taking delivery of any quantity of made tea not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of the proviso to subsection (1).

(4) No licensed dealer in made tea shall sell or deliver any made tea to any other person at any place other than his licensed premises except on a permit issued in that behalf by the Controller.

Restrictions
as to sale,
purchase and
delivery of
green tea
leaf.

5. (1) No person other than a licensed dealer in green tea leaf shall sell or deliver any green tea leaf to any other person :

Provided, however, that the preceding provisions of this subsection shall not be deemed to prohibit the registered proprietor of any estate or small holding from selling or delivering any green tea leaf which is the produce of that estate or holding.

(2) No person other than a licensed dealer in green tea leaf or a manufacturer shall purchase or take delivery of any green tea leaf from any other person.

6. (1) No person other than a licensed dealer in tea seed shall sell or deliver any tea seed to any other person :

Restrictions
as to sale,
purchase and
delivery of
tea seed.

Provided, however, that the preceding provisions of this subsection shall not be deemed to prohibit the registered proprietor of any estate or small holding from selling or delivering any tea seed which is the produce of that estate or holding.

(2) Save as otherwise provided in subsection (5), no person other than a licensed dealer in tea seed or a registered proprietor shall purchase or take delivery of any tea seed.

(3) The Controller may, upon application made to him in that behalf by a person to whom a licence for planting tea has been granted under the Tea Control Act, issue a permit under his hand authorizing that person to purchase or take delivery of tea seed of such description and in such quantity or number as may be specified in the permit.

(4) The permit issued under subsection (3) shall be in the prescribed form.

(5) Nothing in subsection (2) shall be deemed to prohibit a person to whom a permit has been issued under subsection (3) from purchasing or taking delivery of any quantity or number of tea seed of the description specified in the permit not exceeding the quantity or number so specified.

7. (1) No person shall purchase or take delivery of any refuse tea from any other person except under the authority of a permit granted by the Controller under this section.

Restriction
of sale or
purchase of
refuse tea.

(2) Every application for a permit authorizing the purchase of refuse tea shall be made to the Controller in such form as may be provided by him for the purpose ; and the Controller shall not grant any such permit unless it is shown to his satisfaction that the applicant requires refuse tea for the purposes of any business carried on or proposed to be carried on by the applicant.

(3) Every permit granted under this section shall—

- (a) specify the maximum quantity of refuse tea which may be purchased under the authority thereof ;
- (b) specify the manufacturer from whom such quantity may be purchased ; and
- (c) contain such conditions as the Controller may consider necessary, including conditions specifying or restricting the purposes for which refuse tea may be used by the holder.

(4) No person, other than a manufacturer, shall sell or deliver any refuse tea to any other person.

(5) No manufacturer shall sell or deliver any refuse tea to any person except upon surrender to the manufacturer of a permit granted under this section authorizing the holder thereof to purchase refuse tea from that manufacturer.

(6) No manufacturer shall on surrender to him of any permit sell or deliver to the holder of the permit any quantity of refuse tea exceeding the quantity specified in the permit.

(7) Any person who contravenes or fails to comply with any condition inserted in a permit granted to him under this section shall be guilty of an offence under this Act.

Restrictions
as to posses-
sion of made
tea, green
tea leaf, tea
seed and
refuse tea.

8. (1) Every person, other than a registered proprietor or a manufacturer or a licensed dealer in made tea, who has in his possession any quantity of made tea shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such tea is in his possession on behalf of a registered proprietor or a manufacturer or a licensed dealer in made tea :

Provided, however, that—

- (a) the possession, by a retailer, of any made tea in any quantity not exceeding the prescribed maximum quantity referred to in subparagraph (ii) of paragraph (a) of the proviso to subsection (1) of section 4 shall not constitute an offence under this Act; and
- (b) the possession, by any person, of any made tea in any quantity not exceeding the prescribed maximum quantity referred to in subparagraph (iii) of paragraph (a) of the proviso to subsection (1) of section 4 shall not constitute an offence under this Act.

(2) Every person, other than a registered proprietor or a manufacturer or a licensed dealer in green tea leaf, who has in his possession any green tea leaf shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such leaf is in his possession on behalf of a registered proprietor or a manufacturer or a licensed dealer in green tea leaf.

(3) Every person, other than a registered proprietor or a licensed dealer in tea seed, who has in his possession any tea seed shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such seed is in his possession on behalf of a registered proprietor or a licensed dealer in tea seed :

Provided, however, that the possession, by a person to whom a permit has been issued under subsection (3) of section 6, of any quantity or number of tea seed of the description specified in the permit, not exceeding the quantity or number so specified, shall not constitute an offence under this Act.

(4) Every person, other than a manufacturer, who has in his possession any quantity of refuse tea shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such refuse tea—

- (a) is in his possession on behalf of a manufacturer ;
or
- (b) was purchased or acquired by him under the authority of a permit granted under section 7.

(5) Where any person is convicted of an offence under this section in respect of any made tea or green tea leaf or tea seed or refuse tea, the court may order such tea or leaf or seed either to be restored to the person proved to the satisfaction of the court to be the lawful owner thereof or to be forfeited to Her Majesty and disposed of in such manner as the Controller may determine.

(6) Where any person is convicted of an offence under this section in respect of any made tea or green tea leaf or tea seed or refuse tea found in any vehicle or vessel, the court may order that such vehicle or vessel shall be forfeited to Her Majesty :

Provided, however, that no order under this subsection shall be made except after notice to the owner of the vehicle or vessel, nor unless the court is satisfied that the vehicle or vessel was used with the knowledge of the owner thereof for the purpose of the transport of stolen made tea or stolen green tea leaf or stolen tea seed or stolen refuse tea.

(7) Where upon the conviction of a person under this section an order under subsection (5) or subsection (6) is made, an appeal shall lie to the Supreme Court from such conviction and such order, notwithstanding the provisions of section 335 of the Criminal Procedure Code.

Duties of
licensed
dealers and
of manufac-
turers
manufactur-
ing made tea
from green
tea leaf
which is not
the produce
of their
estates or
small
holdings.

9. (1) Every licensed dealer shall display in a conspicuous position in his licensed premises a board bearing in English, Sinhalese and Tamil—

- (a) where he is a licensed dealer in made tea, the word “Licensed Dealer in Made Tea”, or
- (b) where he is a licensed dealer in green tea leaf, the words “Licensed Dealer in Green Tea Leaf”, or
- (c) where he is a licensed dealer in tea seed, the words “Licensed Dealer in Tea Seed”.

(2) Every licensed dealer shall maintain in his licensed premises a register in the prescribed form and shall enter therein the prescribed particulars

immediately upon the purchase or taking delivery or the sale or making delivery of any made tea or green tea leaf or tea seed.

(3) Where any manufacturer manufactures made tea out of green tea leaf which is not the produce of any estate or small holding of which he is the registered proprietor, he shall maintain in his tea factory a register in the prescribed form and shall enter therein the prescribed particulars immediately upon the purchase or taking delivery of any such green tea leaf or the sale or making delivery of any made tea manufactured by him out of any such green tea leaf.

(4) Where any entry made in any register required by subsection (2) or subsection (3) to be maintained by any licensed dealer or manufacturer is false in any material particular, the licensed dealer or manufacturer and the person by whom such entry was made shall each be guilty of an offence under this Act unless he proves to the satisfaction of the court that the entry was made without his knowledge or consent or through a bona fide mistake.

(5) Every licensed dealer shall keep in his licensed premises, and every manufacturer to whom subsection (3) applies shall keep in his tea factory, scales capable of weighing up to one hundredweight avoirdupois and if, at any time referred to in section 14, any officer authorized by or under that section to inspect those premises or that factory requests that dealer to weigh any made tea or green tea leaf in those premises or to weigh or count any tea seed in those premises or requests that manufacturer to weigh any made tea or green tea leaf which is in that factory and regarding which particulars are required by subsection (3) to be entered in the register which he is required by that subsection to maintain, that dealer or that manufacturer as the case may be, shall forthwith comply with such request and shall give every facility and assistance to that officer to compare the weight or number of the articles weighed or counted by him in compliance with such request with the weight or number thereof as shown in the register which he is required by subsection (2) or subsection (3) to maintain :

Provided, however, that it shall not be necessary for a licensed dealer who deals solely in made tea packeted by a registered packer to keep in his licensed premises the scales referred to in this subsection.

(6) Every licensed dealer shall on or before the fifth day of each month prepare and transmit to the Controller a return in the prescribed form relating to the quantity of made tea or green tea leaf, or the quantity or number of tea seed, purchased by or delivered to or sold or delivered by him in the preceding month.

(7) Every manufacturer to whom subsection (3) applies shall on or before the fifth day of each month prepare and transmit to the Controller a return in the prescribed form relating to—

- (a) the quantity of green tea leaf purchased by him in the preceding month from registered proprietors or from licensed dealers in green tea leaf,
- (b) the quantity of green tea leaf delivered to him in the preceding month by registered proprietors for manufacture into made tea for those proprietors,
- (c) the quantity of made tea manufactured by him in the preceding month from green tea leaf referred to in paragraph (a) of this subsection, and
- (d) the quantity of made tea manufactured by him in the preceding month from green tea leaf referred to in paragraph (b) of this subsection.

Unlawful possession of made tea or green tea leaf or tea seed by licensed dealers or by manufacturers to whom section 9(3) applies.

10. Where there is a discrepancy between the quantity of made tea or green tea leaf, or the quantity or number of tea seed, actually found in the licensed premises of a licensed dealer or the quantity of made tea or green tea leaf actually found in the tea factory of a manufacturer to whom subsection (3) of section 9 applies and the quantity or number thereof which, according to the entries in the register maintained under that section, should be in such premises or factory, that dealer or that manufacturer, as the case may be, shall be guilty of an offence under this Act :

Provided, however, that no prosecution shall be entered if such dealer or manufacturer proves to the satisfaction of the Controller that such discrepancy has been caused in the normal manufacture of the made tea or is due to natural causes or has been occasioned by some loss or bona fide mistake.

11. (1) No licensed dealer shall take delivery, or cause or permit delivery to be taken, of any made tea or green tea leaf or tea seed which is not the produce of any estate or small holding of which he is the registered proprietor unless there is furnished to him a valid declaration in respect of such tea or leaf or seed. Declarations.

(2) No manufacturer shall take delivery, or cause or permit delivery to be taken, of any green tea leaf which is not the produce of any estate or small holding of which he is the registered proprietor unless there is furnished to him a valid declaration in respect of such leaf.

(3) No registered proprietor and no person to whom a permit under subsection (3) of section 6 has been issued shall take delivery, or cause or permit delivery to be taken, of any tea seed which is not the produce of any estate or small holding of which he is the registered proprietor unless there is furnished to him a valid declaration in respect of such seed.

(4) A declaration made for the purposes of any of the preceding subsections of this section shall not be valid unless it—

- (a) is in the prescribed form, and
- (b) is signed by a person legally entitled to sell or deliver the articles to which the declaration relates or by any other person authorized by him to sign such declarations on his behalf.

(5) Every person to whom a declaration is furnished under this section shall retain that declaration for a period of one year, and all the provisions of section 14 relating to the inspection of the register shall apply to every such declaration.

(6) A person making for the purposes of this section a declaration which to his knowledge is false in any material particular shall be guilty of an offence under this Act.

(7) In any case where the registered proprietor of any estate or small holding furnishes a declaration for the purposes of this section in respect of any articles alleged in the declaration to be the produce of that estate or holding and the total quantity or number of those articles specified in the declaration is substantially in excess of the total quantity or number of such articles which could reasonably have been produced by that estate or holding, that proprietor and the person by whom the declaration was signed shall each be guilty of an offence under this Act unless he accounts for such excess to the satisfaction of the court.

Restrictions
as to taking
delivery at
night.

12. No person shall take delivery, or cause or permit delivery to be taken, of any made tea or green tea leaf or tea seed or refuse tea at any time between sunset and sunrise unless such delivery is authorized by a permit issued by the Controller.

Restriction as
to transport
at night.

13. No person shall transport, or cause or permit the transport of, any made tea or green tea leaf or tea seed or refuse tea at any time between sunset and sunrise unless such transport is authorized by a permit issued by the Controller.

Powers of
entry and
inspection.

14. (1) It shall be lawful for the Controller or any officer authorized by him in writing in that behalf, or for any police officer not below the rank of Sub-Inspector, to enter and inspect, at any time between sunrise and sunset, any premises in respect of which a dealer's licence is in force or any tea factory of a manufacturer to whom subsection (3) of section 9 applies, and to call for and take extracts from the register required by this Act to be maintained in those premises or in that factory ; and it shall be the duty of the licensed dealer or the manufacturer or other person for the time being in charge of those premises or that factory to give admittance to the Controller or such authorized officer

or such police officer and to permit him to inspect those premises or that factory and the register and to take extracts therefrom.

(2) Where the Controller or any officer mentioned in subsection (1) has reasonable grounds for believing that any offence under this Act has been or is being committed in any premises or tea factory referred to in that subsection, it shall be lawful for him to exercise at any time whatsoever in respect of such premises or factory the powers conferred by that subsection, and in any such case—

- (a) any person who resists or obstructs the Controller or such officer shall be guilty of an offence under this Act, and
- (b) it shall be lawful for the Controller or such officer to break into such premises or factory for the purpose of inspecting such premises or factory and the register maintained therein and of taking extracts from such register.

15. Every person who contravenes or fails to comply with any provision of this Act or any regulation made thereunder shall be guilty of an offence under this Act.

Contravention of provisions of this Act or of regulations.

16. (1) Every person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine.

Punishment for offences under this Act.

(2) Where any offence under this Act is committed by a body corporate or by a firm, every person who is a director, manager, officer or partner of that body or firm shall be guilty of that offence unless he proves that he had taken all steps to prevent the commission of the offence and the offence was committed without his knowledge or consent.

17. Every offence under this Act shall be deemed to be cognizable within the meaning of the Criminal Procedure Code, and any person against whom a reasonable suspicion exists that he is guilty of an offence under

Offences to be cognizable.

this Act may be arrested by a police officer not below the rank of Sergeant. Every person so arrested shall, with all convenient despatch, be taken to the nearest police station to be dealt with according to law.

Regulations.

18. (1) The Minister may make such regulations as may be necessary for the purpose of carrying out or giving effect to the provisions and principles of this Act and in particular for prescribing any matter which is stated or required to be prescribed.

(2) No regulation made by the Minister shall have effect until it has been approved by the Senate and the House of Representatives. Every regulation which is so approved shall be published in the Gazette and shall be as valid and effectual as though it were herein enacted.

Transmission of proceedings on conviction of licensed dealer to the Controller.

19. Where a licensed dealer is convicted of an offence under this Act, the Magistrate shall transmit a copy of the proceedings to the Controller for such action as he may deem necessary.

Interpretation.

20. In this Act, unless the context otherwise requires—

“Controller” means the Tea Controller or any person acting for the Tea Controller and includes an Assistant Tea Controller ;

“dealer’s licence” means a licence issued under section 2 ;

“licensed dealer” means the licensee specified in a dealer’s licence which is in force ;

“made tea” means tea manufactured from the leaves, leaf buds and immature stalk of the tea plant but does not include refuse tea ;

“manufacturer” means a manufacturer of made tea who is for the time being registered as a manufacturer under the Tea Control Act ;

“prescribed” means prescribed by regulation made under this Act ;

- “refuse tea” means sweepings, red leaf, fluff, mature stalk or any other product (not being made tea) obtained in the process of manufacture of made tea ;
- “registered packer” means a packer registered under the Food and Drugs (No. 5) Regulations, 1952, made under the Food and Drugs Act and published in Gazette No. 10,490 of 23rd January, 1953 ;
- “registered proprietor” means the person for the time being registered under the Tea Control Act as the proprietor of any estate or small holding ; and includes the accredited agent of such proprietor ;
- “retailer” means a person for the time being carrying on the business of selling made tea by retail ;
- “tea plant” means the plant of the species *camellia sinensis* syn. *Camellia Thea*, Link, syn. *Thea sinensis*, Linn ;
- “tea seed” means the seed of the tea plant and includes tea plants, tea seedlings, and such cuttings from or such living portions of tea plants as are capable of being used to propagate such plants.

CHAPTER 36

HOTEL KEEPERS

Ordinance
No. 33 of 1908.

AN ORDINANCE TO MAKE BETTER PROVISION FOR THE PROTECTION OF HOTEL KEEPERS AND OTHERS AGAINST FRAUDS.

[10th December, 1908.]

Short title.

1. This Ordinance may be cited as the Hotel Keepers Protection Ordinance.

Penalty for persons who fail to discharge debts to hotel keepers, &c., on demand.

2. (1) Any person who incurs any debt or liability to the keeper or manager of an hotel, inn, resthouse, restaurant, or eating-house for food, drink, or lodging shall, unless he gives notice at the time of incurring the same that he will require credit, be deemed to represent that he is and will be able to discharge such debt or liability on demand.

(2) Where any person, having incurred any such debt or liability without giving notice as aforesaid, fails to discharge the same on demand, he shall, unless he satisfies the court that he had no intention to defraud, be guilty of an offence under this Ordinance, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding three months.

(3) Every offence under this Ordinance shall be triable by the Magistrate's Court having local jurisdiction, and shall be "non-cognizable" and "bailable" within the meaning of the Criminal Procedure Code.

(4) An appeal shall lie to the Supreme Court from every conviction under this section, the provisions of section 335 of the Criminal Procedure Code, notwithstanding.

Copy of Ordinance to be exhibited in hotel, &c.

3. No person shall be punishable under this Ordinance unless, at the time when he incurred the debt or liability in respect of which the charge is made, a copy of this Ordinance was exhibited in some conspicuous place in the hotel, inn, resthouse, restaurant or eating-house.

CHAPTER 37

OLD METAL

AN ORDINANCE TO REGULATE THE BUSINESS OF DEALERS
IN OLD METAL.

Ordinance
No. 12 of 1905.

[21st September, 1905.]

1. This Ordinance may be cited as the Old Metal Ordinance. Short title.

2. In the construction and for the purposes of this Ordinance : Interpretation.

“ dealer in old metal ” means any person dealing in, buying, or selling old metal of any kind or description, scrap metal, broken metal, or partly manufactured metal goods, or defaced or old metal goods, or portions of machinery, and whether such person deals in such articles only or together with other things ;

“ old metal ” means the said articles or any of them.

3. (1) It shall be lawful for any Magistrate, on complaint made before him, upon oath or affirmation, that the complainant has reason to believe and does believe that any old metal, stolen or unlawfully obtained, is kept in any house, shop, room, or place, by any dealer in old metal, to give authority by special warrant to any constable or police officer to enter in the daytime such house, shop, room, or place, with such assistance as may be necessary, and to search for and seize all such old metal there found, and to carry all the articles so seized before the Magistrate issuing the warrant, or some other Magistrate. Penalty on dealer in old metal being in possession of stolen property.

(2) Such Magistrate shall thereupon issue a summons requiring such dealer to appear before him at a time and place to be named in such summons ; and if such dealer does not then and there prove to the

satisfaction of such Magistrate how he came by the said articles, or if any such dealer is found in the possession of any old metal which has been stolen or unlawfully obtained, and, on his being taken or summoned before a Magistrate, it is proved to the satisfaction of such Magistrate that at the time when he received it he had reasonable cause to believe it to have been stolen or unlawfully obtained, then in either of such cases such dealer shall be liable to a penalty not exceeding fifty rupees, and for any subsequent offence to a penalty not exceeding two hundred rupees, or, in the discretion of the Magistrate, in the case of such second or subsequent offence shall be liable to imprisonment, with or without hard labour, for any term not exceeding three months :

Provided always that nothing herein contained shall interfere with or affect any proceeding by indictment to which such dealer in old metal may be liable for feloniously and knowingly receiving stolen goods, but no person shall be prosecuted by indictment and also proceeded against under this Ordinance for the same offence.

Power to
order dealer
to be
registered
after
conviction.

4. (1) When any dealer in old metal is convicted of either of the offences aforesaid it shall be lawful for such Magistrate, or, on proof of such conviction, for any other Magistrate of the same province, to order and direct that such dealer shall be registered at the principal police office of such province in a book to be kept by the Superintendent of Police of such province for such purpose, according to the form A contained in the Schedule.

(2) From and after such registration such dealer shall be subject to and shall conform to the several regulations hereinafter provided for such period, not exceeding three years, as such Magistrate may order, and if such dealer during such period is convicted of any offence under this Ordinance, the Magistrate so convicting him may order the period for which he is then subject to such regulations to be extended for not more than three years from the time when such period would otherwise expire.

5. (1) Every dealer in old metal who is subject to the regulations of this Ordinance as aforesaid shall, upon removing to any other place of business, give notice of such removal at the police station where he is registered, and if he continues to carry on business as a dealer in old metal without giving such notice he shall incur a penalty not exceeding fifty rupees, and a penalty not exceeding five rupees for every day after the first on which he continues to carry on such business without giving such notice.

Giving of notice by registered dealer of change of place of business.

(2) Where such dealer removes to any place out of the province in which he has been registered, it shall be the duty of the Superintendent of Police for such province to transmit a certificate of such registration signed by himself, which shall be evidence of such registration, together with a certified copy of any order of a Magistrate as to the period for which such dealer is to be subject to the regulations of this Ordinance, to the Superintendent of Police of the province in which such dealer has taken up his residence.

(3) Any Magistrate of such province may thereupon issue a summons to such dealer to appear before him, and if it appears to such Magistrate that he intends to carry on business as a dealer in old metal, such Magistrate may order him to be registered in the same manner as is provided in the last preceding section, and such registration shall have the same effect during the period for which such dealer is to be subject to the regulations of this Ordinance by any order of a Magistrate as aforesaid as in the said section is provided.

6. It shall be lawful for any Magistrate, by order in writing to authorize one or more inspectors or sergeants of police to visit at any time the places of business and inspect the goods and books of dealers in old metal who are subject to the regulations of this Ordinance as aforesaid and who carry on business within the division of the province for which such Magistrate acts ; and every such inspector or sergeant shall, and is hereby empowered to, record, in the book hereinafter required to be kept by every such dealer in old metal, the day

Power of visiting place of business of registered dealer.

and hour of his visit, and to place opposite the entry of every article examined by him his name or initials in attestation of the same.

Regulations
to be
observed by
registered
dealer.

7. (1) Every dealer in old metal who is registered as aforesaid shall, during the period which a Magistrate may order as herein before provided, conform to the following regulations, that is to say :—

- (a) he shall keep a book or books fairly written, and shall enter therein, according to the form B contained in the Schedule, an account of all such old metal as he may from time to time become possessed of, stating in respect of each article the name of the person who purchased or received the same, and the time at which and the name of the person from whom he purchased or received the same, adding, in the case of every such last-mentioned person, a description of his business and place of abode ; and he shall also enter in such book or books, according to the form C in the Schedule, an account of all such old metal as he may from time to time sell or dispose of, stating in respect of such old metal the name of the person to whom he sold or disposed of the same, adding a description of his business and place of abode ; and every such entry in any such book shall be deemed and taken, unless the contrary is shown, to have been made by or with the authority of the dealer in old metal to whom such book belongs ;
- (b) he shall not, by himself or by any other person, purchase or receive any old metal of any description before the hour of seven o'clock in the morning nor after the hour of six o'clock in the evening, nor shall he, by himself or by any other person, purchase or receive old metal of any description from any person apparently under the age of sixteen years, nor shall he employ any servant or apprentice or any other

person under the age of twelve years to purchase or receive old metal of any description ;

(c) he shall produce to any inspector or sergeant of police authorized as in the last preceding section provided, whenever thereto requested, the book or books required to be kept as aforesaid and any old metal purchased or received by him then in his possession ;

(d) he shall without delay give notice to the officer on duty at the police station nearest to the place where he carries on business of any articles then in his possession, or which may thereafter come into his possession answering the description of any articles which have been stolen, embezzled, or fraudulently obtained, of which printed or written information containing a description of such articles is given to him by any officer of police ; and

(e) he shall keep all old metal purchased or received by him without changing the form in which the articles comprising the same were when so purchased, or disposing of the same in any way, for a period of forty-eight hours after such articles have been purchased or received.

(2) For any act or default contrary to the foregoing regulations done or made by any registered dealer in old metal during the period which a Magistrate may order as herein before provided he shall incur a penalty of not less than ten rupees and not exceeding fifty rupees, and for every subsequent offence a penalty of not less than fifty rupees and not exceeding two hundred rupees.

(3) And all old metal seized under the provisions of this Ordinance may be confiscated.

Confiscation
of property.

8. If stores are found in the possession or keeping of a person being in Her Majesty's service or in the service of a public department, or being a dealer in marine stores or in old metals, or a pawnbroker (within the meaning of any enactments for the time being in force relating to such dealers or to pawnbrokers), and he is

Penalty on
dealer found
in possession
of stores and
not account-
ing for them.

taken or summoned before a Magistrate's Court and the court sees reasonable grounds for believing the stores found to be or to have been Her Majesty's property, then, if such person does not satisfy the court that he came lawfully by the stores so found, he shall be liable on summary conviction to a penalty not exceeding fifty rupees.

Possession defined for the purposes of this Ordinance.

9. For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

Procedure and appeal.

10. All proceedings before any Magistrate under this Ordinance shall be conducted as near as may be according to the form of summary procedure, and shall be subject to the appeal provided by the Criminal Procedure Code for the time being in force in Ceylon ; and all penalties imposed under this Ordinance shall be enforced as though they were fines enforceable under the provisions of the Criminal Procedure Code aforesaid.

Magistrate's Court to have jurisdiction.

11. (1) Any offence or breach of regulations under this Ordinance may be inquired into, tried, and determined by any Magistrate's Court within the district in which such offence or breach was committed wholly or in part, and such court shall have jurisdiction to award the maximum punishment prescribed therefor and to declare and adjudge any article liable to be confiscated under section 7 of this Ordinance forfeited, and to condemn the same, whatever may be the amount or value thereof, anything in the Criminal Procedure Code to the contrary notwithstanding.

(2) The Magistrate's Court imposing a penalty under this Ordinance may award to an informer any portion not exceeding a moiety thereof which may be actually recovered.

SCHEDULE

Form A

REGISTER OF DEALERS IN OLD METAL

[Section 4.]

Name	Place of Abode and Business	Date of Conviction	Date of Registration	Period for which to be subject to Regulations of the Ordinance

Form B

ENTRY OF PURCHASES AND RECEIPTS OF OLD METAL

[Section 7.]

1 Name of Person who purchased or received	2 Name of Person from whom purchased or received	3 Business and Place of Abode of Person from whom purchased or received	4 Description of Old Metal purchased or received	5 Day of purchase or receipt, and hour of day

Form C

ENTRY OF SALES OF OLD METAL

[Section 7.]

Name of Person to whom sold	Business and Place of Abode or of Business of Person to whom sold	Description of Old Metal sold	Day of sale

CHAPTER 38

UNIFORMS

Ordinance
No. 6 of 1895.

AN ORDINANCE TO REGULATE AND RESTRICT THE WEARING OF
NAVAL, MILITARY, AND AIR FORCE UNIFORMS.

[2nd October, 1896.]

Short title.

1. This Ordinance may be cited as the Uniform Ordinance.

Military uniforms not to be worn without authority.

2. (1) It shall not be lawful for any person not serving in Her Majesty's military forces to wear, without Her Majesty's permission, the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform :

Provided that this enactment shall not prevent any persons from wearing any uniform or dress in the course of a stage play performed in a place duly licensed or authorized for the public performance of stage plays, or in the course of a circus performance, or in the course of any bona fide military representation.

Penalty.

(2) If any person contravenes this section he shall be liable on conviction to a fine not exceeding fifty rupees.

Uniform of naval, military or air forces not to be brought into contempt.

3. If any person not serving in Her Majesty's naval, military, or air forces wears without Her Majesty's permission the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform, or employs any other person so to wear that uniform or dress, he shall be liable on conviction to a fine not exceeding one hundred rupees, or to simple imprisonment for a term not exceeding one month, or to both.

4. In this Ordinance, unless the context otherwise requires— Interpretation.

“Her Majesty’s military forces” means the army of Ceylon within the meaning of the Army Act ;

“Her Majesty’s naval forces” means the Royal Ceylon Navy within the meaning of the Navy Act ;

“Her Majesty’s air forces” means the Royal Ceylon Air Force within the meaning of the Air Force Act.

CHAPTER 39

OFFICIAL SECRETS

Act
No. 32 of 1955.

AN ACT TO RESTRICT ACCESS TO OFFICIAL SECRETS AND
SECRET DOCUMENTS AND TO PREVENT UNAUTHORIZED
DISCLOSURE THEREOF.

[1st September, 1955.]

Short title.

1. This Act may be cited as the Official Secrets Act.

Declaration
of prohibited
places.

2. (1) For the better safeguarding of information relating to the defences of Ceylon and to the equipment, establishments, organizations or institutions intended to be or capable of being used for the purposes of defence, the Minister may by Order declare—

- (a) that any land, building, ship or aircraft specified in the Order shall be a prohibited place for the purposes of this Act, or
- (b) that lands, buildings, ships or aircraft of any class or description specified in the Order shall be prohibited places for those purposes.

(2) Where by an Order under subsection (1) the Minister declares lands, buildings, ships or aircraft of any class or description specified in the Order to be prohibited places, he may, by the same Order or by any subsequent Order under that subsection, exclude from such prohibited places any land, building, ship or aircraft of that class or description or any part of any such land or building.

(3) Every Order under this section shall be published in the Gazette and shall come into force on such date not earlier than the date of publication of the Order in the Gazette as may be specified in the Order or, where no date is so specified, on the date of such publication.

(4) Where an Order is made and published under this section, the question of the necessity for the Order or the validity thereof shall not be canvassed by any court or authority.

3. (1) No person shall enter any prohibited place :
Provided, however, that—

Entry into
prohibited
places.

- (a) a person holding office under Her Majesty may enter a prohibited place in the discharge of his duties, and
- (b) a person to whom a permit is issued under section 15 may enter a prohibited place specified in the permit for any purpose authorized by the permit.

(2) If a person—

- (a) contravenes the provisions of subsection (1), or
- (b) gains admission to a prohibited place otherwise than at an authorized point of entry,

he shall be guilty of an offence punishable under subsection (2) of section 26.

(3) A person shall be deemed to enter a prohibited place if he proceeds towards or into that place further than—

- (a) any wall, fence, barrier, buoy, boom or mole, erected, placed or maintained by the competent authority of that place in order to indicate the boundary thereof, or
- (b) any point or line (being a point or line on or near the boundary of that place) at which persons are required or directed to stop either by a sentry on duty thereat or by a notice exhibited by the competent authority of that place.

(4) In the case of any prohibited place “authorized point of entry” means such point on the boundary of that place as may be set apart or specified or approved by or on behalf of the competent authority of that place as the point at which persons may enter that place.

4. If any person, within or in the vicinity of a prohibited place, obstructs or knowingly misleads, or otherwise interferes with or impedes any police officer or any member of the Ceylon forces engaged on guard,

Resistance to
or inter-
ference with
sentries.

sentry, patrol, or other similar duty in relation to the prohibited place, he shall be guilty of an offence punishable under subsection (2) of section 26.

Possession of cameras, &c., in prohibited places.

5. (1) No person shall take with him into a prohibited place, or have in his possession while he remains therein, any camera or sketching materials :

Provided, however, that—

- (a) a person holding office under Her Majesty may, in the discharge of his duties, take with him into a prohibited place, or have in his possession while he remains therein, any camera or sketching materials ;
- (b) a person holding office under Her Majesty and residing within a prohibited place may take with him into that place, or have in his possession while he remains therein, any camera or sketching materials ; and
- (c) a person to whom a permit is issued under section 15 may, if the permit expressly authorizes him to do so, take with him into a prohibited place specified in the permit, or have in his possession while he remains therein, any camera or sketching materials.

(2) If a person contravenes the provisions of subsection (1), he shall be guilty of an offence punishable under subsection (2) of section 26.

(3) No person shall take or make any photograph, sketch or model of any prohibited place or of anything therein :

Provided, however, that—

- (a) a person holding office under Her Majesty may, in the discharge of his duties, take or make any photograph, sketch or model of any prohibited place or of anything therein ; and
- (b) a person to whom a permit is issued under section 15 may, if the permit expressly authorizes him to do so, take or make any photograph, sketch or model of any part of a prohibited place or anything in that place.

(4) If a person contravenes the provisions of subsection (3), he shall be guilty of an offence punishable under subsection (2) of section 26.

6. (1) If any person, for any purpose prejudicial to the safety or interests of the State— Spying.

- (a) approaches, inspects, passes over, is in the neighbourhood of or enters any prohibited place ; or
- (b) takes any measurements or soundings or carries out a survey of any prohibited place ; or
- (c) takes or makes any photograph, sketch or model of any prohibited place or of anything in any such place ; or
- (d) makes any record or note relating to any prohibited place or to anything in any such place ; or
- (e) obtains, collects, records, publishes, or uses, or communicates to any other person any official secret or secret document, or any information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy,

he shall be guilty of an offence punishable under subsection (1) of section 26.

(2) On a prosecution under this section—

- (a) it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State ; and if any official secret or secret document, or any such information as is referred to in paragraph (e) of subsection (1) is obtained, collected, recorded, published, used, or communicated by any person other than a person acting under lawful authority, it shall

- be deemed to have been obtained, collected, recorded, published, used, or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved ; and
- (b) the fact that the accused person has been in communication with, or attempted to communicate with, a foreign agent, whether within or without Ceylon, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy.
- (3) For the purposes of paragraph (b) of subsection (2), without prejudice to the generality of the provisions of that paragraph—
- (a) a person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent if—
- (i) he has, either within or without Ceylon, visited the address of a foreign agent or consorted or associated with a foreign agent, or
- (ii) either, within or without Ceylon, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person ;
- (b) the expression “foreign agent” includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Ceylon, prejudicial to the safety or interests of the State or who has or is reasonably suspected of having, either within or without Ceylon, committed, or attempted to commit, such an act in the interests of a foreign power ; and

- (c) any address, whether within or without Ceylon, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign agent, and communications addressed to such an address shall be deemed to be communications with a foreign agent.

7. (1) If any person entrusted with any official secret or secret document, communicates or delivers it to any other person who is not a person to whom he is authorized to communicate or deliver it or to whom it is in the interests of the State his duty to communicate or deliver it, he shall be guilty of an offence punishable under subsection (2) of section 26.

Communica-
tion of official
secret, &c., to
unauthorized
persons.

(2) If any person who is not entrusted with, but who is otherwise having possession or control of, any official secret or secret document, communicates or delivers it to any other person who is not authorized to receive it or who is not a person to whom it is in the interests of the State his duty to communicate or deliver it, he shall be guilty of an offence punishable under subsection (2) of section 26.

8. (1) If any person receives any official secret or secret document or permits it to be communicated or delivered to him, having reasonable cause to believe that it is communicated or delivered to him in contravention of this Act, he shall be guilty of an offence punishable under subsection (2) of section 26.

Receiving
unauthorized
communica-
tion of official
secret, &c.

(2) It shall be a sufficient defence for any person charged with an offence under subsection (1) to prove that the communication or delivery of the official secret or secret document was not due to any solicitation or demand on his part.

9. If any person who is entrusted with, or is otherwise having possession or control of, any official secret or secret document—

Conduct
endangering
safety of
official secret,
&c.

- (a) fails to take reasonable care of such secret or document; or

- (b) conducts himself in such manner as to endanger the safety or secrecy of the information or document ; or
- (c) in the case of such document, retains it in his possession or control when he has no right, or when it is contrary to his duty, to retain it, or fails to comply with any direction issued by lawful authority with regard to the return or disposal thereof,

he shall be guilty of an offence punishable under subsection (2) of section 26.

Unauthor-
ized use of
uniforms,
false declara-
tions,
forgery,
personation
and forged
documents.

10. (1) If any person, for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of the State—

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform ; or
- (b) orally or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission ; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence or other document of a similar character (hereafter in this section referred to as an “official document”), or uses or has in his possession any such forged, altered, or irregular official document ; or
- (d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding office under Her Majesty, or to be or not to be a person to whom an official document or a secret official code word or pass word has been duly issued or communicated,

or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement ; or

- (e) uses or has in his possession or under his control, without lawful authority, any die, seal, or stamp used in Her Majesty's service, or any die, seal or stamp so nearly resembling any die, seal or stamp used in Her Majesty's service as to be calculated to deceive, or counterfeits any die, seal or stamp used in Her Majesty's service, or uses, or has in his possession, or under his control, any such counterfeited die, seal or stamp,

he shall be guilty of an offence punishable under subsection (2) of section 26.

(2) If any person—

- (a) retains, for any purpose prejudicial to the safety or interests of the State, any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by lawful authority with regard to the return or disposal thereof ; or
- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding it or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to the officer in charge of a police station,

he shall be guilty of an offence punishable under subsection (2) of section 26.

(3) In the case of any prosecution under this section involving the proof of a purpose prejudicial to the

safety or interests of the State, subsection (2) (a) of section 6 shall apply in like manner as it applies to prosecutions under that section.

Power to
require the
production of
telegrams.

11. (1) Whenever it appears to the Governor-General to be expedient in the public interest, he may, by order under his hand, require any person who owns or controls any telegraph or wireless telegraph used for the sending or receipt of messages to or from any place outside Ceylon, to produce to him, or to any person named in the order, the originals and transcripts, either of all messages, or of messages of any class or description specified in the order, or of messages sent from or addressed to any person or place specified in the order, being messages sent to or received from any place outside Ceylon by means of any such telegraph or wireless telegraph, and all other papers relating to any such message.

(2) If any person who is required to produce any original or transcript or paper referred to in subsection (1) refuses or neglects to do so or mutilates or destroys such original or transcript or paper, he shall be guilty of an offence punishable under subsection (3) of section 26.

(3) In this section, the expressions "message", "telegraph" and "wireless telegraph" shall have the same meanings as in the Telecommunications Ordinance.

Duty to give
information.

12. (1) Where the Inspector-General of Police is satisfied that there is reasonable ground for suspecting that an offence under this Act has been committed and for believing that any person is able to furnish information as to the suspected offence, he may apply to the Minister for permission to exercise the powers conferred by this subsection and, if such permission is granted, he may authorize any police officer not below the rank of Inspector to require the person believed to be able to furnish information to give any information in his power relating to the suspected offence, and, if so required and on tender of his reasonable expenses, to attend at such reasonable time and place as may be specified by the Inspector-General of Police or by the police officer authorized as aforesaid.

(2) Where the Inspector-General of Police has reasonable ground for believing that a case is one of great emergency and that in the public interest immediate action is necessary, he may exercise the powers conferred by subsection (1) without applying for or being granted the permission of the Minister, but, if he does so, shall forthwith report the circumstances to the Minister.

(3) References in this section to the Inspector-General of Police shall be construed as including references to any other officer of police expressly authorized by the Inspector-General of Police to act on his behalf for the purposes of this section when by reason of illness, absence, or other cause the Inspector-General is himself unable to act.

(4) If any person who is required under the preceding provisions of this section to give any information or to attend as aforesaid fails to comply with the requirement or knowingly gives false information, he shall be guilty of an offence punishable under subsection (3) of section 26.

13. (1) If any person—

- (a) knowingly harbours any other person whom he knows, or has reasonable grounds for believing, to be a person who is about to commit or who has committed an offence under this Act ; or
- (b) knowingly permits any such persons to meet or assemble in any premises in his occupation or under his control ; or
- (c) having harboured any such person, or having permitted any such persons to meet or assemble in any premises in his occupation or under his control, wilfully omits or refuses to disclose to a police officer any information which it is in his power to give in relation to any such person,

Harbouring
offenders or
intending
offenders.

he shall be guilty of an offence punishable under subsection (2) of section 26.

(2) For the purposes of this section any person who, knowing or having reasonable cause to believe that any other person is about to commit or has committed

any offence under this Act, supplies such other person with shelter, food, drink, money, clothes, arms, ammunition, or means of transport, or otherwise maintains or assists such other person or conceals him with a view to preventing his apprehension or screening him from legal punishment, shall be deemed to harbour such other person.

Attempts,
incitements,
&c.

14. If any person attempts to commit, or solicits or incites or endeavours to persuade or conspires with any other person to commit, or aids or abets or does any act preparatory to the commission of, an offence under this Act, he shall be guilty of an offence and shall be liable to be proceeded against in the same manner, and on conviction thereof shall be liable to the same punishment, as that provided in this Act for the first-mentioned offence.

Permits.

15. (1) The competent authority of a prohibited place—

- (a) may issue to any person a permit, subject to such conditions as may be specified in the permit, authorizing him to enter that place for such purpose as may be so specified, and
- (b) may authorize a person to whom a permit is issued, by express provision in the permit, to take any camera or sketching materials into the aforesaid place and take or make any photograph or sketch of any such part of that place or any such thing therein as may be specified in the permit.

(2) Where the competent authority of a prohibited place issues a permit under subsection (1) expressly authorizing the taking or making of any photograph or sketch, he shall specify in the permit a condition that every photograph or sketch taken or made under the authorization given by the permit shall be submitted to him for examination and approval and that any such photograph or sketch, if disapproved wholly or in part by him, shall be liable to be confiscated or destroyed or to be modified by the obliteration of any part or otherwise, as he may in each case deem necessary.

(3) If a person to whom a permit is issued under subsection (1) contravenes or fails to comply with any condition specified in the permit, he shall be guilty of an offence punishable under subsection (2) of section 26.

16. Where any person is found to be committing or is known or reasonably suspected to have committed an offence under any of the foregoing provisions of this Act in or in the vicinity of a prohibited place or in relation to any such place, the competent authority of that place or any officer acting under his direction may—

Power to search offenders or suspects and seize photographs, &c.

- (a) detain such person for purposes of search ; and
- (b) cause such person and any camera or sketching materials in his possession to be searched ; and
- (c) seize any photograph or sketch found on such person or in his camera or among his sketching materials or otherwise in his possession.

Where it is necessary to search the person of a female under this section, the search shall in every case be carried out by a female and with strict regard to decency.

17. Where a Magistrate is satisfied that there is reasonable cause to believe that there is in existence within his local jurisdiction a photograph, sketch or model which contains or affords matter or information relating to a prohibited place or anything therein, being matter or information likely to be directly or indirectly useful to an enemy or to any foreign power or otherwise likely to be prejudicial to the safety or interests of the State, he may issue a search warrant to search for and seize such photograph, sketch or model, whether or not an offence under this Act is alleged or is reasonably suspected to have been committed.

Search warrant to look for and seize photographs, &c.

18. (1) Every photograph, sketch or model seized under section 16 or in the execution of a search warrant under section 17 shall be produced before a Magistrate,

Disposal of photographs, &c., seized or produced.

and shall be transmitted by the Magistrate, through the appropriate channels, to the Minister for directions as to the disposal thereof.

(2) The Minister, if he considers that any photograph, sketch or model transmitted to him under subsection (1) contains matter or information directly or indirectly useful to an enemy or to any foreign power or otherwise prejudicial to the safety or interests of the State, may direct that the photograph, sketch or model be forfeited or that any part thereof be obliterated, erased, or removed.

(3) The directions given by the Minister under subsection (2) in respect of any photograph, sketch or model shall apply to every copy or print thereof then existing or thereafter made, and in the case of a photograph shall apply, also, to the film, plate or developed negative from which the photograph was reproduced.

(4) If any person contravenes any direction given by the Minister under subsection (2), or resists or obstructs, or prevents by any act, default or refusal, the execution of any such direction, he shall be guilty of an offence punishable under subsection (3) of section 26.

Power to
arrest.

19. (1) Any person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be arrested without a warrant.

(2) Without prejudice to the generality of the provisions of subsection (1) it is hereby declared that it shall be lawful for any commissioned officer, warrant officer, petty officer, non-commissioned officer or leading rating of any of the Ceylon forces or for any police officer, with or without a warrant or other process, to arrest or cause to be arrested any person who, in a prohibited place or on any land or premises in the occupation of any of the Ceylon forces, is found committing or is reasonably suspected to be committing an offence under this Act, and forthwith to bring or cause to be brought the person so arrested before a Magistrate for the purpose of being dealt with according to law.

20. (1) If a Magistrate is satisfied by information on oath or affirmation that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorizing any police officer named therein, or authorizing, if so requested, any police officer accompanied by an officer deputed by the Commander of the Army, the Captain of the Royal Ceylon Navy, or the Commander of the Royal Ceylon Air Force to enter at any time any premises or place specified in the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize and retain any photograph, sketch, model, note or document, or any such other article as is evidence of an offence under this Act, having been or being about to be committed, which he may find on the premises or place or on any such person and with regard to or in connexion with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

Search
warrants.

(2) When it appears to a police officer not below the rank of Assistant Superintendent in charge of a district that a case is one of great emergency and that in the interests of the State immediate action is necessary, he may, by a written order under his hand, give to any subordinate police officer the like authority as may be given by the warrant of a Magistrate under this section.

21. The provisions of the Criminal Procedure Code relating to arrests, searches, search warrants, the production of persons arrested before a Magistrate and the investigation of offences shall apply to all action taken in these respects under this Act.

Manner of
making
arrests,
searches, &c.

22. A prosecution for an offence under this Act shall not be instituted except by, or with the sanction of, the Attorney-General :

Restriction on
prosecution.

Provided that, notwithstanding that the sanction of the Attorney-General to the institution of a prosecution for an offence under this Act has not been obtained, a person who is known or is reasonably suspected to have committed that offence may be arrested, or a

warrant for his arrest may be issued and executed, and on being brought before a Magistrate the charge upon which he has been arrested may be explained to him, and he may be remanded in custody or released on bail, so however that he shall not be called upon to plead and the case against him shall not be further prosecuted until the sanction of the Attorney-General has been obtained.

Venue.

23. For the purpose of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which it was actually committed or at any place in Ceylon in which the offender may be found.

Exclusion of public from hearing of cases.

24. In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings, if, in the course of any preliminary proceedings before a court against any person for an offence under this Act, or in the course of the trial of a person for an offence under this Act, or in the course of the hearing of an appeal in any such case, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings, trial or hearing would be prejudicial to the safety or interests of the State, that all or any portion of the public shall be excluded during any part of the proceedings, trial or hearing, the court may make an order to that effect ; but in every case where a sentence has to be passed, such sentence shall be passed in public :

Provided that, except in case of gross misconduct, no advocate or proctor appearing for the accused shall be excluded.

Offences by companies, firms, &c.

25. Where the person guilty of an offence under this Act is a company or corporation, or a member or servant of a partnership or firm, acting in the course of the business of the partnership or firm, every director and officer of the company or corporation or every member of the partnership or firm (as the case

may be) shall be guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

26. (1) Every person who is guilty of an offence under section 6 shall be liable to imprisonment of either description for a term not exceeding fourteen years, and shall also be liable to a fine not exceeding twenty thousand rupees. Penalties.

(2) Every person who is guilty of an offence under any of the sections 3, 4, 5, 7, 8, 9, 10, 13 and 15 shall be liable, on conviction before a District Court, to imprisonment of either description for a term not exceeding two years, and shall also be liable to a fine not exceeding two thousand rupees.

A person charged with an offence under any section mentioned in this subsection may, with the sanction of the Attorney-General, be tried before a Magistrate's Court, and such person shall, on conviction by that court, be liable to imprisonment of either description for a term not exceeding six months and shall also be liable to a fine not exceeding one thousand rupees.

(3) A person who is guilty of an offence under section 11 or section 12 or section 18 (4) shall be liable, on conviction before a Magistrate's Court, to imprisonment of either description for a term not exceeding six months, and also to a fine not exceeding one thousand rupees.

Any person charged with any offence under any section mentioned in this subsection may, if the Attorney-General so directs, be tried before a District Court, and such person shall on conviction by that court be liable to imprisonment of either description for a term not exceeding two years, and also to a fine not exceeding two thousand rupees.

(4) In the case of a District Court or Magistrate's Court, the provisions of this section shall prevail over any other law by which any limit is placed on the punishment that may ordinarily be imposed by such court.

Interpretation.

27. (1) In this Act, unless the context otherwise requires—

“Commonwealth” includes the United Kingdom of Great Britain and Northern Ireland, the Dominions, the British Colonies, Protectorates and Protected States, British mandated territories and British trust territories ;

“camera” includes every instrument, device or contrivance, of whatsoever nature or description, which is used or is capable of being used for the purpose of taking photographs, and all implements or equipment used or capable of being used as ancillary to that purpose ;

“competent authority”, in relation to each prohibited place, means the officer specified in that behalf by the Minister by Order published in the Gazette either in respect of that prohibited place or in respect of any class or description of prohibited places to which that prohibited place belongs ;

“Ceylon forces” means such military, naval and air forces as may be raised and maintained by Her Majesty’s Government in Ceylon, and includes—

- (i) any volunteer force which has for the time being been called out for active service under any law in Ceylon ; and
- (ii) any of Her Majesty’s regular forces or any forces of any other part of the Commonwealth or, in the event of war, any forces of any power allied with Her Majesty, which are for the time being stationed in Ceylon and are deemed to be Ceylon forces for the purposes of this Act by virtue of any direction in that behalf given by the Minister by Order published in the Gazette ;

“contract made on behalf of Her Majesty” includes any contract made by any department of Her Majesty’s Government in Ceylon or of the

Government of any other part of the Commonwealth and, in the event of war, of the Government of any ally of Her Majesty in that war ;

“ document ” includes a part of a document ;

“ Her Majesty’s service ” means service of any description for or under Her Majesty’s Government in Ceylon or the Government of any other part of the Commonwealth ;

“ implements of war ” includes the whole or any part of any ship, submarine, aircraft, tank, or similar vessel, vehicle or engine, arms and ammunition, and any bomb, torpedo, or mine, intended or adapted for use in war, and any other article, material or device, whether fitted together or in parts, intended for such use ;

“ lawful authority ”, in any context relating to any permission or direction or order required for any of the purposes of this Act, means an officer in Her Majesty’s service who is duly empowered to grant such permission or to issue such direction or order ;

“ Minister ” means the Minister of Defence and External Affairs ;

“ model ” includes design, pattern, and specimen ;

“ office under Her Majesty ” includes any office or employment in the Ceylon forces or in any department of Her Majesty’s Government in Ceylon or the Government of any other part of the British Commonwealth ;

“ official secret ” means—

- (i) any secret official code word, countersign or pass word ;
- (ii) any particulars or information relating to a prohibited place or anything therein ;
- (iii) any information of any description whatsoever relating to any arm of the Ceylon forces or to any implements of war maintained for use in Her Majesty’s

service or to any equipment, organization or establishment intended to be or capable of being used for the purposes of the defence of Ceylon ; and

(iv) any information of any description whatsoever relating directly or indirectly to the defences of Ceylon ;

“ photograph ” includes a photographic film or plate, any developed or processed negative, and any printed or other pictorial representation or diagram produced in whole or part by photographic means ;

“ prohibited place ” means a place declared to be a prohibited place by an Order made and published under section 2 ;

“ secret document ” means any document containing any official secret and includes—

(i) any secret official code or anything written in any such code ; and

(ii) any map, sketch, plan, drawing, or blue-print, or any photograph or model or other representation, of a prohibited place or anything therein or of any implement of war or of anything relating to the defences of Ceylon ;

“ sketch ” includes any drawing, map, plan, tracing, blue-print or other print, or painting, or other pictorial representation ;

“ sketching materials ” includes every description of material, implement or equipment used or capable of being used for making any sketch as herein before defined ;

“ State ” means Ceylon or any other part of the Commonwealth.

(2) For the purposes of this Act—

(a) a person shall be deemed to have been entrusted with any official secret or secret document if—

(i) it has been entrusted in confidence to him by any person holding office under Her Majesty, or

- (ii) he has obtained it or has had access thereto owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held a contract made on behalf of Her Majesty or as a person who is or has been employed by any person who holds or has held such an office or contract ;
 - (b) expressions referring to the act of communicating, delivering or receiving any official secret or secret document include any act of communicating, delivering or receiving a part of such secret or document or the substance, effect, or description thereof ;
 - (c) expressions referring to the act of obtaining or retaining any secret document include the act of copying or causing to be copied the whole or any part of such document ; and
 - (d) expressions referring to the communication or delivering of any secret document include the transfer or transmission of such document.
- (3) During the continuance of any war in which Her Majesty may be engaged and for the purposes of which the territory or any part of the territorial waters of Ceylon is used by or on behalf of Her Majesty, the expression "Her Majesty" and the grammatical variations thereof in any of the preceding provisions of this Act shall, unless the context otherwise requires, be deemed to include a reference to each foreign power or State taking any part in that war as an ally of Her Majesty.

28. The Official Secrets Acts, 1911 to 1939, of the United Kingdom shall cease to be part of the law of Ceylon.

United
Kingdom
Acts not to
apply to
Ceylon.

CHAPTER 40

PUBLIC SECURITY

Ordinance
No. 25 of 1947,
Acts
Nos. 22 of 1949,
34 of 1953.

AN ORDINANCE TO PROVIDE FOR THE ENACTMENT OF EMERGENCY REGULATIONS IN THE INTERESTS OF THE PUBLIC SECURITY AND THE PRESERVATION OF PUBLIC ORDER AND FOR THE MAINTENANCE OF SUPPLIES AND SERVICES ESSENTIAL TO THE LIFE OF THE COMMUNITY.

[16th June, 1947.]

PART I

GENERAL

Short title.

1. This Ordinance may be cited as the Public Security Ordinance.

Power of Governor-General to bring Part II into operation.
[§ 3, 34 of 1953.]

2. (1) Where, in view of the existence or imminence of a state of public emergency, the Governor-General is of opinion that it is expedient so to do in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community, the Governor-General^a may, by Proclamation published in the Gazette, declare that the provisions of Part II of this Ordinance shall come into operation forthwith or on such date as may be specified in the Proclamation.

[§ 2, 22 of 1949.]

(2) Where the provisions of Part II of this Ordinance have come into operation on any date by virtue of a Proclamation under subsection (1), those provisions shall be in operation for a period of one month from that date, but without prejudice to the earlier revocation of the Proclamation or to the making of a further Proclamation at or before the end of that period.

[§ 2, 22 of 1949.]

(3) Where a Proclamation is made under the preceding provisions of this section, the occasion thereof shall forthwith be communicated to

Parliament, and, if Parliament is then separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days, and Parliament shall accordingly meet and sit upon the day appointed by that Proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

The fact that the occasion of the making of a Proclamation under subsection (1) cannot be communicated to Parliament by reason that either House or both Houses of Parliament does not or do not meet when summoned to meet as provided by this subsection shall not in any way affect the validity or operation of that Proclamation or of the provisions of Part II of this Ordinance or anything done under that Part:

[§ 3, 34 of 1953.]

Provided that in such event, Parliament shall again be summoned to meet as early as possible thereafter.

3. Where the provisions of Part II of this Ordinance are or have been in operation during any period by virtue of a Proclamation under section 2, the fact of the existence or imminence, during that period, of a state of public emergency shall not be called in question in any court.

Presumption
as to
existence or
imminence of
public
emergency.
[§ 4, 34 of 1953.]

4. The expiry or revocation of any Proclamation under section 2 shall not affect or be deemed to have affected—

Saving
provisions
applicable
on cessation
of operation
of Part II.
[§ 3, 22 of 1949.]

- (a) the past operation of anything duly done or suffered to be done under Part II of this Ordinance while that Part was in operation;
- (b) any offence committed, or any right, liberty or penalty acquired or incurred while that Part was in operation;
- (c) the institution, maintenance or enforcement of any action, proceeding or remedy under that Part in respect of any such offence, right, liberty or penalty.

PART II

EMERGENCY REGULATIONS

Power of
Governor-
General to
make
emergency
regulations.
[§ 5, 34 of 1953.]

5. (1) The Governor-General³ may, upon the recommendation of the Prime Minister or any other Minister authorized by the Prime Minister to act on his behalf under this section in case of his temporary absence or incapacity, make such regulations (hereinafter referred to as "emergency regulations") as appear to him to be necessary or expedient in the interests of public security and the preservation of public order and the suppression of mutiny, riot or civil commotion, or for the maintenance of supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, emergency regulations may, so far as appears to the Governor-General³ to be necessary or expedient for any of the purposes mentioned in that subsection—

[§ 5, 34 of 1953.]

- (a) authorize and provide for the detention of persons ;
- (b) authorize—
 - (i) the taking of possession or control, on behalf of Her Majesty, of any property or undertaking ;
 - (ii) the acquisition on behalf of Her Majesty of any property other than land ;
- (c) authorize the entering and search of any premises ;
- (d) provide for amending any law, for suspending the operation of any law and for applying any law with or without modification ;
- (e) provide for charging, in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations ;
- (f) provide for payment of compensation and remuneration to persons affected by the regulations ;

- (g) make provision for the apprehension and punishment of offenders and for their trial by such courts, not being courts martial, and in accordance with such procedure, as may be provided for by the regulations, and for appeals from the orders or decisions of such courts and the hearing and disposal of such appeals. [§ 4, 22 of 1949.]

(3) Any emergency regulation may be added to, or altered or revoked by resolution of the House of Representatives or by regulation made under the preceding provisions of this section. [§ 4, 22 of 1949.]

6. Emergency regulations may provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorized by this Ordinance to be made, and may contain such incidental and supplementary provisions as appear to the Governor-General³ to be necessary or expedient for the purposes of the regulations. Delegation of powers.

7. An emergency regulation or any order or rule made in pursuance of such a regulation shall have effect notwithstanding anything inconsistent therewith contained in any law ; and any provision of a law which may be inconsistent with any such regulation or any such order or rule shall, whether that provision shall or shall not have been amended, modified or suspended in its operation under section 5 of this Ordinance, to the extent of such inconsistency have no effect so long as such regulation, order or rule shall remain in force. Emergency regulations to prevail over other law.

8. No emergency regulation, and no order, rule or direction made or given thereunder shall be called in question in any court. Regulations, orders, &c., not to be called in question in any court.

9. No suit, prosecution or other proceeding, civil or criminal, shall lie against the Government or any officer or person for any act or thing in good faith done in pursuance or supposed pursuance of any emergency regulation or of any order made or direction given thereunder. Protection of officers, &c.

Reception of documents in evidence, &c.

10. Every document purporting to be an instrument made or issued by the Governor-General³ or other authority or person in pursuance of this Ordinance or of any emergency regulation, and to be signed by or on behalf of the Governor-General³ or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Governor-General³ or that authority or person.

Regulations to come into force upon being made by the Governor-General.

11. Notwithstanding anything in the Interpretation Ordinance or in any other law, every emergency regulation shall come into force forthwith upon its being made by the Governor-General,³ and shall be deemed to be as valid and effective as though it were herein enacted.

CHAPTER 41

STAY-IN STRIKES

AN ACT TO PREVENT PERSONS WHO TAKE PART IN A STRIKE
IN ANY INDUSTRY FROM REMAINING, IN FURTHERANCE
OF THAT STRIKE, IN THE PREMISES IN WHICH THAT
INDUSTRY IS CARRIED ON.

Act
No. 12 of 1955.

[12th April, 1955.]

1. This Act may be cited as the Stay-in Strikes Act.

Short title.

2. Where any person taking part in a strike in any industry remains, in furtherance of that strike, in the premises in which that industry is carried on, he—

Strikers in an industry who, in furtherance of the strike, remain in the premises where the industry is carried on, to be guilty of an offence.

(a) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding one hundred rupees, or to both such imprisonment and such fine, and

(b) may be arrested without warrant and be ejected from those premises by any police officer not below the rank of Inspector of Police.

3. In this Act, the expression "industry" has the same meaning as in the Industrial Disputes Act, and the expression "strike" has the same meaning as in the Trade Unions Ordinance.

Interpretation.

CHAPTER 42

LIGHTING CONTROL

Ordinance
No. 13 of 1939.

AN ORDINANCE TO PROVIDE FOR THE TOTAL OR PARTIAL CESSATION OF LIGHTING IN CEYLON ON OCCASIONS OF EMERGENCY OR PUBLIC DANGER OR BY WAY OF EXPERIMENT OR PRACTICE FOR SUCH OCCASIONS.

[17th March, 1939.]

Short title.

1. This Ordinance may be cited as the Lighting Control Ordinance.

Power to
make
regulations.

2. (1) Whenever the Minister¹ considers that an occasion of emergency or public danger has arisen or is likely to arise, he may make such regulations as he may deem desirable providing by express command, for the total or partial cessation of lighting in any area or place in Ceylon specified in such command.

(2) Whenever the Minister¹ considers that it is necessary, by way of experiment or practice for any occasion of emergency or public danger, that there should be a total or partial cessation of lighting, he may make such regulations as he may deem desirable providing, by a request for co-operation, for such cessation of lighting in any area or place in Ceylon specified in such request.

(3) Where the Minister¹ is satisfied that on any occasion in any area or place in Ceylon the response to a request for co-operation made under subsection (2) has been inadequate or that there has been non-compliance with any regulation made under that subsection, he may, on any subsequent occasion, make such regulations as he may deem desirable providing, by express command, for the total or partial cessation of lighting in that area or place by way of experiment or practice for any occasion of emergency or public danger.

3. Compliance with any such express command or with any such request for co-operation shall exonerate any person from any liability contractual or otherwise for damage resulting from such compliance, provided that such person has taken all other reasonable measures possible to avoid such damage.

Exoneration from liability of persons complying with regulations.

4. Any person who refuses or fails to comply with any such express command 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.

Penalty for refusal or failure to comply with mandatory regulations.

5. (1) Every regulation shall be in force for the prescribed period.

Operation of regulations.

(2) Where any regulation is in conflict with any other written law, the regulation shall prevail and such written law shall be deemed to be modified by the regulation for the prescribed period during which that regulation is in force :

Provided that any such written law which is so deemed to be modified by any regulation shall, upon the expiration of such prescribed period, have the same force and effect as if that regulation had not been made.

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

Interpretation.

“prescribed” means prescribed by regulation ;

“regulation” means a regulation made by the Minister¹ under section 2.

CHAPTER 43

NAVAL AND VICTUALLING STORES

Ordinance
No. 7 of 1867.

AN ORDINANCE FOR THE MORE EFFECTUAL PROTECTION OF
HER MAJESTY'S NAVAL AND VICTUALLING STORES
IN CEYLON.

[18th October, 1867.]

Short title.

1. This Ordinance may be cited as the Naval and Victualling Stores Ordinance.

Marks in
Schedule
appropriated
for Her
Majesty's
naval and
victualling
stores.

2. The marks described in the Schedule may be applied by the officers of the Admiralty, their contractors and workmen, in or on Her Majesty's naval and victualling stores, to denote Her Majesty's property in stores so marked. If any person without lawful authority (proof of which authority shall lie on the party accused) applies any of the said marks in or on any such stores, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Offence.

Obliteration
with intent to
conceal Her
Majesty's
property an
offence.

3. If any person, with intent to conceal Her Majesty's property in any naval or victualling stores, takes out, destroys, or obliterates wholly or in part any such mark as aforesaid, he shall be guilty of an offence, and shall be liable in the discretion of the court before which he shall be tried, to be imprisoned for any term not exceeding two years, with or without hard labour.

Knowingly
receiving, &c.,
marked stores
an offence.

4. If any person without lawful authority (proof of which authority shall lie on the party accused) receives, possesses, keeps, sells, or delivers any naval or victualling stores bearing any such mark as aforesaid, knowing them to bear such mark, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour :

Provided that if the value of such stores does not exceed fifty rupees such person shall be liable to be tried before a Magistrate's Court, and shall be subject to such punishment as it shall be lawful for the Magistrate's Court to inflict.

Where stores do not exceed fifty rupees in value.

5. For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

Criminal possession explained.

6. It shall not be lawful for any person, without permission in writing from the officers of the Admiralty, or from some person authorized by such officers in that behalf, to creep, sweep, dredge, or otherwise search for stores in the sea or any tidal water within hundred yards from any vessel belonging to Her Majesty or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to Her Majesty, or from any of Her Majesty's wharves or docks, victualling, or steam factory yards. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding fifty rupees, or to be imprisoned for any term not exceeding three months, with or without hard labour.

No unauthorized person to creep, sweep, &c., for stores within hundred yards of dockyards, &c.

SCHEDULE

[Section 2.]

MARKS APPROPRIATED FOR HER MAJESTY'S USE IN OR ON NAVAL AND VICTUALLING STORES

<i>Stores</i>	<i>Marks</i>
Hempen cordage and wire rope ..	White, black, or coloured worsted threads laid up with the yarns and the wire respectively.
Canvas, fearnought, hammocks, and seamen's bags	A blue line in a serpentine form.
Bunting ..	A double tape in the warp.
Candles ..	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal, and other stores not before enumerated	The broad arrow.

CHAPTER 44

BETTING ON HORSE-RACING

Ordinances
Nos. 9 of 1930,
29 of 1930,
55 of 1943.

AN ORDINANCE FOR THE TAXING OF BETTING ON HORSE-RACING, FOR THE REGISTRATION OF RACE-COURSES, AND FOR EXEMPTING TAXABLE BETS FROM THE PROVISIONS OF THE GAMING ORDINANCE.

[1st August, 1930.]

Short title. 1. This Ordinance may be cited as the Betting on Horse-racing Ordinance.

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

“backer” includes any person who bets at a totalisator ;

“certificate-holder” means any person to whom a certificate of registration is issued under this Ordinance, and in the case of a certificate issued to the stewards of a racing club, the stewards of the club functioning as such during the continuance of the certificate ;

[§ 2, 55 of 1943.]

“instrument of unlawful betting” means any article or thing used or intended to be used as a subject or means of unlawful betting on a horse-race, or any document used or intended to be used as a register or record or evidence of any unlawful betting on a horse-race ;

[§ 2, 55 of 1943.]

“money” includes a currency note, cheque, postal order or money order and any security for money ;

[§ 2, 55 of 1943.]

“occupier”, in relation to any premises, includes any person having the use temporarily or otherwise of the premises and any agent of such person ;

[§ 2, 55 of 1943.]

“owner”, in relation to any premises, includes any agent of the owner of the premises ;

“premises” includes any place or spot, whether open or enclosed, and any ship, boat or other vessel, whether afloat or not, and any vehicle ; [§ 2, 55 of 1943.]

“prescribed” means prescribed by this Ordinance or by regulations made thereunder ;

“race-meeting” means a meeting at which one or more horse-races are run, whether exclusively or in conjunction with any other event or events ;

“racing club” includes a club, association, society, or body of persons, corporate or unincorporate formed for the purpose of promoting horse-races, and for holding, conducting or controlling race-meetings ;

“registered race-course” means a race-course registered under the provisions of this Ordinance ;

“totalisator” means the contrivance for betting known as a totalisator or pari-mutuel or any other machine or instrument of betting of a like nature, whether mechanically operated or not ;

“unlawful betting”, with its grammatical variations and cognate expressions, when used in relation to a horse-race, means making, placing, receiving or negotiating a bet on a horse-race other than a taxable bet. [§ 2, 55 of 1943.]

3. (1) There shall be charged and levied, at the rate prescribed by or under this Ordinance and in the manner provided by this Ordinance, a tax on bets of not less than one rupee on any horse-race which is run or proposed to be run at a race-meeting held on a registered race-course, made otherwise than on credit by a person acting on his own behalf, after the prescribed hour on the day on which the race is run, at a totalisator worked by the certificate-holder for the race-course, within a room or place set apart for the purpose under section 7 of this Ordinance. Taxable bets.
[§ 3, 55 of 1943.]

(2) All such bets are referred to in this Ordinance as “taxable bets”.

[§ 3, 55 of 1943.]

(3) Any person who—

- (a) makes or places a bet on a horse-race other than a taxable bet, or
- (b) receives or negotiates a bet on a horse-race other than a taxable bet,

shall be deemed to bet unlawfully on a horse-race and shall be guilty of an offence.

[§ 3, 55 of 1943.]

(4) For the purposes of subsection (1), “prescribed hour”, when used in relation to a bet made on a horse-race run or proposed to be run at any race-meeting held on a registered race-course on any day, means one hour before the time fixed for the commencement of the first horse-race proposed to be run at that race-meeting on that day.

Keeping, &c.,
of premises
for unlawful
betting on a
horse-race.

[§ 4, 55 of 1943.]

4. (1) Any person who, being the owner or occupier of any premises—

- (a) lets the whole or any part of those premises, knowing or having reason to believe that the whole or any part of the premises is to be kept or used for the purpose of unlawful betting on a horse-race ; or
- (b) keeps or uses, or knowingly permits any other person to keep or use, the whole or any part of those premises for the purpose of unlawful betting on a horse-race,

shall be guilty of an offence.

(2) For the purposes of subsection (1), any premises shall be deemed to be kept or used for the purpose of unlawful betting on a horse-race if they are used for such purpose even on one occasion only.

Declarations
as to prosecu-
tions and
exemptions
under the
Gaming
Ordinance.

5. Notwithstanding anything contained in the Gaming Ordinance, it is hereby declared that—

- (i) no prosecution under that Ordinance shall be instituted or maintained in respect of any taxable bet ; and
- (ii) the exemptions given by section 21 of that Ordinance shall not be construed so as to apply in the case of any bet made on a horse-race.

6. (1) The stewards of any racing club, or any other person, may apply to the prescribed officer for the registration of any race-course under their or his control, for the purpose of holding a race-meeting or race-meetings thereon.

Registration
of race-
course.

(2) Every such application shall be made in the prescribed form, and the prescribed officer shall, upon receipt of the application together with the prescribed fee, if any, duly register the race-course or race-courses in respect of which application for registration has been made, and shall issue to the stewards or to the other person making the application a certificate of registration in the prescribed form in respect of each race-course so registered :

Provided that where a certificate so issued has been cancelled under section 14 the prescribed officer may refuse to re-register the race-course in respect of which it had been issued if the application for such re-registration is made by the original certificate-holder or some person associated with him in its control.

(3) Every application under this section by the stewards of a racing club may be made by the secretary of the club for the time being.

7. (1) Where a certificate-holder intends to work one or more totalisators at any race-meeting to be held on the race-course in respect of which his certificate has been issued, he shall inform the prescribed officer of his intention, in writing, at least seven days prior to that race-meeting and shall specify the number of totalisators to be worked at that race-meeting and the particular enclosure of such race-course in which each such totalisator is to be worked. The certificate-holder shall set apart in each enclosure of such race-course one or more special rooms or places for each totalisator which he intends to work in that enclosure.

Totalisators
on registered
race-courses.

[§ 5, 55 of 1943.]

(2) Where at any race-meeting held on any race-course on any day, several enclosures are provided and different rates of fees are charged for admission to the several enclosures, no bet shall be made or

[§ 5, 55 of 1943.]

accepted on any totalisator in any such enclosure except—

- (a) in a room or place set apart in that enclosure under subsection (1) for the purpose of that totalisator ; and
- (b) by or from a person who holds a ticket of admission issued to him by the certificate-holder entitling him to enter that enclosure on that day.

[§ 5, 55 of 1943.]

(3) In this section, “ enclosure ” when used in relation to any race-course, means any enclosure within that race-course to which members of the public are admitted on payment of a fee.

Certificate-holder to keep accounts, and to permit inspection, &c.

8. Every certificate-holder shall keep accounts containing such particulars as the prescribed officer may require, and showing all sums paid by way of taxable bets at every race-meeting held on the registered race-course in respect of which his certificate has been issued, and shall, when required in writing by the prescribed officer, permit him, or any person deputed in writing by him for that purpose, to enter and inspect any such race-course, and to inspect and take copies of such accounts.

Betting tax.

9. (1) On all sums referred to in section 8, there shall be charged and levied a tax payable by the backers, hereinafter referred to as “ the betting tax ”, at the rate of three and a half per centum of every such sum, or at such other rate* as may be authorized by resolution of the House of Representatives.¹

(2) The betting tax shall be deducted by the certificate-holder from such sums and shall be retained by him on behalf of the Government, and the certificate-holder shall, at the prescribed time and in the prescribed manner, forward to the prescribed officer a return showing the totals of all such sums and make over to him the amount of the betting tax payable thereon, and the prescribed officer shall receive the same on behalf of the Government.

* Rate fixed at twenty per centum with effect from 7th November, 1952.—Gazette No. 10,468 of 7th November, 1952.

10. Every certificate of registration issued under this Ordinance shall be exhibited by the certificate-holder in a prominent place on the race-course in respect of which it has been issued during the whole of every race-meeting held thereon.

Exhibition of certificate of registration.

11. (1) Every certificate-holder or other person who contravenes or fails to comply with any of the provisions of this Ordinance or of any regulation made thereunder shall be guilty of an offence.

Penalty for offences by certificate-holders, and others.

(2) Every person who is guilty of an offence under this Ordinance shall, on conviction of such offence after summary trial before a Magistrate, be liable—

[§ 6, 55 of 1943.]

(a) for a first offence, to a fine not exceeding one thousand rupees, or, in default of payment of such fine, to imprisonment of either description for a term not exceeding one year ; and

(b) for a second or subsequent offence, to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

12. Upon the conviction of any person of an offence under section 3 (3) or section 4, the Magistrate may order that any instrument of unlawful betting produced before the court, and any money so produced which the Magistrate is satisfied was used or intended to be used for the purpose of unlawful betting on a horse-race, be forfeited to the Crown and may give such directions for the disposal of such instrument or such money as he may deem fit.

Forfeiture by court of instruments of betting, money, &c.
[§ 7, 55 of 1943.]

13. When any certificate-holder is convicted of an offence by reason of failure to make over any sum due and payable as betting tax, the Magistrate shall, in addition to any penalty imposed by him, order that the sum so due and payable, or any amount thereof which is outstanding shall be recoverable from the certificate-holder who has been convicted as if it were a fine imposed upon him by a Magistrate's Court, and the same may be recovered accordingly.

Recovery of betting tax.

Cancellation
of certificates
on conviction.

14. Where a certificate-holder is convicted of an offence against this Ordinance or any regulation made thereunder, the certificate may be forthwith cancelled by the prescribed officer, but such cancellation shall not be deemed to be a penalty within the meaning of section 11.

Offences and
other acts by
stewards of
racing club.

15. (1) When any offence against this Ordinance or any regulation made thereunder is committed by the stewards of a racing club in their capacity as a certificate-holder, the president or chairman of the club, and every officer or steward of the club, shall be guilty of the like offence, unless the act or omission constituting the offence took place without his knowledge or consent.

(2) All acts which, by this Ordinance or by any regulation made thereunder, are required to be done by a certificate-holder may, when the certificate is held by the stewards of a racing club, be done by the secretary of the club for the time being, on behalf of the stewards.

Regulations.

16. (1) It shall be lawful for the Minister¹ to make regulations for all or any of the following matters or purposes :—

- (a) for prescribing forms to be used for the purposes of this Ordinance ;
- (b) for securing the payment of the betting tax ;
- (c) for the production and inspection of accounts required to be kept under this Ordinance ; and
- (d) generally for carrying into effect the provisions of this Ordinance, and for prescribing all matters which may or are to be prescribed.

(2) All regulations made under this Ordinance shall be laid, as soon as conveniently may be, on the table of the Senate and the House of Representatives¹ at two successive meetings of the Senate and the House of Representatives,¹ and shall be brought before the Senate and the House of Representatives¹ at the next subsequent meeting held thereafter by a motion that the said regulations shall not be disapproved, and if upon the introduction of any such motion, or upon any

adjournment thereof, the said regulations are disapproved by the Senate or the House of Representatives,¹ such regulations shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder; and such regulations, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

17. (1) Where a Magistrate is satisfied by information on oath that there is reason to suspect that any offence against this Ordinance or any regulation made thereunder is being or has been committed, or that there is any document or thing directly or indirectly connected with any such offence, in any premises, he may grant a search warrant authorizing any person named therein to enter at any time, with or without assistants, if need be by force, the said premises and to search the same and any person found therein and to seize and detain any such document or thing, or any instrument of unlawful betting, or any money which the person so authorized reasonably suspects to have been used or intended to be used for the purpose of unlawful betting on a horse-race, and, if he thinks fit, to arrest any person found in or escaping from the premises whom he has reason to suspect is guilty of any such offence.

Search warrants.

[§ 8, 55 of 1943.]

[§ 8, 55 of 1943.]

[§ 8, 55 of 1943.]

(2) Where a police officer of or above the rank of Sergeant in charge of a police station has reason to suspect that any such offence is being or has been committed, or that there is any such document or thing, in any premises, and that a search warrant cannot be obtained under subsection (1) without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his suspicion, exercise all or any of the powers which could have been conferred on him by subsection (1).

[§ 8, 55 of 1943.]

[§ 8, 55 of 1943.]

[§ 8, 55 of 1943.]

18. Where any premises are entered under the authority of a search warrant issued by a Magistrate under section 17 (1) upon the Magistrate being satisfied that there is reason to suspect that an offence

Presumptive proof against occupier of premises.
[§ 9, 55 of 1943.]

against section 3 (3) or section 4 is being or has been committed in those premises then—

- (a) if any instrument of unlawful betting is found in those premises or upon any person found therein, or
- (b) if persons are seen or heard to escape therefrom on the approach or entry of any person authorized under such warrant to enter and search such premises, or
- (c) if any person so authorized is unlawfully prevented from or obstructed or delayed in entering or approaching such premises—

it shall be presumed, until the contrary is proved, that such premises are kept or used for the purpose of unlawful betting on a horse-race and are so kept or used by the occupier thereof.

Presumptive
proof of
unlawful
betting on a
horse-race.
[§ 9, 55 of 1943.]

19. Any person who is found—

- (a) in any premises kept or used for the purpose of unlawful betting on a horse-race ; or
- (b) in possession of any instrument of unlawful betting on the occasion of his being searched under this Ordinance,

shall be presumed, until the contrary is proved, to be guilty of the offence of unlawful betting on a horse-race.

CHAPTER 45

LOTTERIES

AN ORDINANCE FOR THE SUPPRESSION OF LOTTERIES.

[10th July, 1844.]

Ordinances
Nos. 8 of 1844,
3 of 1883,
6 of 1944,
Act
No. 2 of 1954.

1. This Ordinance may be cited as the Lotteries Ordinance.

Short title.

2. All unlicensed lotteries, under whatsoever denomination or pretence they shall be set up, carried on, or kept, shall be deemed and are hereby declared to be common nuisances and against law.

Lotteries declared nuisances.
[§ 2, 6 of 1944.]

3. Every person who promotes or conducts any unlicensed lottery shall be guilty of an offence.

Promoter or conductor of unlicensed lottery.
[§ 2, 2 of 1954.]

4. If any person shall draw, or cause to be drawn, any ticket or chance in any unlicensed lottery or shall by playing, throwing, or in any other way whatsoever, endeavour to win or obtain any prize in, or to derive any benefit for himself or for any other person from any unlicensed lottery, every such person shall be guilty of an offence.

Person drawing ticket or chance in lottery.
[§ 3, 6 of 1944.]
[§ 3, 2 of 1954.]

5. If any person shall, within Ceylon and its dependencies, sell, deliver, or dispose of, purchase, or wilfully receive any ticket or chance in any unlicensed lottery promoted or conducted in Ceylon or in any lottery promoted or conducted outside Ceylon, every such person shall be guilty of an offence.

Person selling or buying ticket or chance.
[§ 4, 2 of 1954.]
[§ 4, 6 of 1944.]

6. If any person shall under any pretence, device, or description whatsoever, agree to pay any sum, or deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or

Persons assisting in setting up lottery.

[§ 5, 2 of 1954.]

[§ 5, 6 of 1944.]

[§ 5, 6 of 1944.]

applicable to the drawing, winning, or obtaining of any ticket or chance in any unlicensed lottery, or shall make, print, or publish any proposal, under any denomination, name, or title whatever, for any of the purposes aforesaid, every such person shall be guilty of an offence.

Keeping premises for purposes of lottery.

[§ 6, 6 of 1944.]

7. If any person shall keep or use any premises or place or knowingly permit any premises or place to be kept or used, for any purpose connected with any unlicensed lottery promoted or conducted in Ceylon or any lottery promoted or conducted outside Ceylon, every such person shall be guilty of an offence.

Minister to issue lottery licences.

[§ 6, 2 of 1954.]

8. (1) Licences to promote or conduct lotteries may, in accordance with the provisions of this Ordinance, be issued by the Minister in his discretion after consultation with the Inspector-General of Police.

(2) A licence to promote or conduct any lottery is hereinafter referred to as a "lottery licence", and a lottery licence to promote or conduct any lottery or lotteries in connection with any horse-race or horse-races is hereinafter referred to as a "horse-race lottery licence".

(3) A horse-race lottery licence may authorize the licensee to promote or conduct a lottery in connection with—

- (a) a specified horse-race in any specified year or in every year, or
- (b) each of a specified number of any horse-races in any specified year or in every year, or
- (c) any horse-race at a specified race-meeting in any specified year or in every year, or
- (d) any horse-race at every race-meeting held by a specified racing club in any specified year or in every year.

Lottery licences may be issued to societies.

[§ 6, 2 of 1954.]

9. (1) A licence to promote or conduct any kind of lottery may be issued to a society upon application duly made in that behalf and upon payment of the prescribed fee.

(2) No lottery licence issued to a society shall authorize the promotion or conduct of more than one lottery.

10. (1) A horse-race lottery licence may be issued to a racing club upon application duly made in that behalf and upon payment of the prescribed fee.

Only horse-race lottery licences may be issued to racing clubs.
[§ 6, 2 of 1954.]

(2) No lottery licence other than a horse-race lottery licence shall be issued to a racing club.

11. Every application by a society or racing club for a lottery licence—

Applications for lottery licences.
[§ 6, 2 of 1954.]

(1) shall be made in writing to the Minister through the Permanent Secretary ;

(2) shall state the name and address of the society or club, the governing body thereof, and the name and address of each member of such body ;

(3) shall, if the application is for a horse-race lottery licence—

(a) specify the number of lotteries proposed to be promoted or conducted, and

(b) state—

(i) where the number of lotteries is one, whether the lottery is to be promoted or conducted in any specified year or in every year and the horse-race in connection with which the lottery is to be so promoted or conducted and the country in which that race will be run ;

(ii) where the number of lotteries is more than one, whether the lotteries are to be promoted or conducted in any specified year or in every year and the number of horse-races in connection with each of which a lottery is to be so promoted or conducted and the country in which each such race will be run and, if any such race

is to be run in Ceylon, the racing club holding the race-meeting at which that race will be run ;

(4) shall give full particulars relating to the lottery or each lottery to be promoted or conducted, and in particular—

(a) shall state the price at which every ticket or chance is to be sold ;

(b) shall, if the applicant is a society, state whether tickets or chances are to be sold only to members of the society or are to be sold to the public ;

(c) shall state the number of prizes which are to be offered in the lottery or in each lottery, and as respects each such prize—

(i) shall state whether the prize will be donated by any person for the purposes of the lottery in which the prize is to be offered, and, if the prize will not be so donated, whether or not the cost of providing or purchasing the prize is to be a charge on the proceeds of the lottery ; and

(ii) shall, if the prize is a money prize, state its value by reference either to a specified sum or to a specified proportion of the proceeds of the lottery ; or

(iii) shall, if the prize is not a money prize, state the nature and value of the prize ;

(d) shall state whether or not the expenses (other than the costs of providing or purchasing prizes) incurred in the promotion or conduct of the lottery are to be a charge on the proceeds thereof ;

- (e) shall state the purpose or purposes to which the proceeds of the lottery or of each lottery are to be applied after deducting such costs and expenses as are stated in the application to be a charge on those proceeds ; and
- (f) shall state the date on which the lottery or each lottery is to be drawn.

12. The Permanent Secretary may direct the applicant for any lottery licence to furnish all such information and documents as the Permanent Secretary may deem necessary for the purpose of enabling the Minister to dispose of the application, and it shall be the duty of the applicant to comply with that direction.

Permanent Secretary may require applicants for lottery licences to furnish information and documents.
[§ 8, 2 of 1954.]

13. Every lottery licence shall be subject to the following conditions :—

General conditions applicable to lottery licences.
[§ 8, 2 of 1954.]

- (1) no written notice or advertisement of a lottery promoted or conducted under the authority of such licence shall in any material particular be inconsistent with or repugnant to any provision of such licence or any statement in the tickets issued in respect of such lottery ;
- (2) no ticket or chance in any such lottery shall be sold or offered for sale at a price exceeding such price as may be specified in such licence ;
- (3) the price of every ticket or chance in any such lottery shall be the same, and the price of every such ticket shall be stated on the ticket ;
- (4) every ticket in any such lottery shall bear on the face of it the name of the licensee ;
- (5) no ticket or chance in any such lottery shall be sold or offered for sale outside Ceylon ;
- (6) every such lottery shall be drawn on such date as may be specified in such licence or on any other date to which it may be postponed by the Permanent Secretary for good reasons upon application made in that behalf by the licensee ;

- (7) a notice stating the number of each winning ticket or chance in every such lottery and, if known, the name and address of the winner thereof shall, forthwith after the result of the lottery is known, be published by the licensee in a Sinhalese daily newspaper, a Tamil daily newspaper and an English daily newspaper circulating in Ceylon, and copies of such notice shall be sent by the licensee to the Permanent Secretary and to the Inspector-General of Police :

Provided, however, that where the licensee is a society and the sale of tickets or chances in the lottery is restricted by the lottery licence to members of that society, the notice aforesaid shall, instead of being published as provided by the preceding provisions of this paragraph, be exhibited by the licensee on the premises of the society and copies of such notice shall be sent by the licensee to the Permanent Secretary and to the Inspector-General of Police ;

- (8) the proceeds of every such lottery, less the deductions permitted by paragraph (9), shall be applied by the licensee to such purpose or purposes as may be specified in such licence, and proof that such proceeds have been so applied shall be furnished by the licensee to the satisfaction of the Permanent Secretary within such period after the draw of the lottery as may be so specified ;
- (9) the following amounts may be deducted from the proceeds of every such lottery :—
- (a) as expenses of the lottery an amount not exceeding such sum or such proportion of the proceeds of the lottery as may be specified in such licence ;
 - (b) an amount equal to the total value of such money prizes in the lottery as are provided out of the proceeds of the lottery ;

- (c) an amount equal to the total actual cost or value of such other prizes in the lottery as have not been donated by any person for the purposes of the lottery ; and
 - (d) any lottery tax payable under this Ordinance ;
- (10) proper books of account relating to every such lottery shall be kept by the licensee and such books and all other documents relating to the lottery shall be made available by the licensee at all reasonable times for the inspection of any officer authorized in that behalf by the Permanent Secretary or the Inspector-General of Police throughout the period of the promotion or conduct of the lottery and for a further period of twelve calendar months reckoned from the date of the draw of the lottery ;
- (11) a statement of accounts relating to every such lottery duly audited and certified by an accountant shall, within such period reckoned from the date of the draw of the lottery as may be specified in such licence, be furnished by the licensee to the Permanent Secretary and to the Inspector-General of Police ; and
- (12) such other conditions as the Minister may deem fit to insert in such licence, including, in any case where the licensee is a society, a condition restricting the sale of tickets or chances to members of that society.

14. A horse-race lottery licence shall, in addition to the conditions specified in section 13 or imposed thereunder, be subject to the following further conditions :—

- (a) every prize in any lottery promoted or conducted under the authority of such licence shall be a money prize ;
- (b) where any such lottery is in connection with a horse-race to be run outside Ceylon or in connection with a horse-race at a race-meeting in Ceylon which is not held by the society or racing club to which such licence has been issued, no ticket or chance in the lottery shall

Special conditions applicable to horse-race lottery licences.

[§ 8, 2 of 1954.]

be issued, distributed, sold or offered for sale, by any person who is not a member of, or is not authorized in writing in that behalf by, such society or racing club ; and

(c) where any such lottery is in connection with a horse-race at a race-meeting in Ceylon which is held by such society or racing club, no ticket or chance in the lottery shall be issued, distributed, sold or offered for sale—

(i) by any person other than an employee of such society or racing club who is authorized in writing in that behalf by such society or racing club, or

(ii) earlier than 6 a.m. of the day preceding the date of the race in respect of which the lottery is held.

Disposal of
unclaimed
prizes in
licensed
lotteries.
[§ 8, 2 of 1954.]

15. (1) After the expiration of a period of six calendar months reckoned from the date of the draw of any lottery promoted or conducted under the authority of any lottery licence, any money prize or any other prize in such lottery which has not been paid or delivered to the person entitled thereto by reason of the fact that such person is not known shall be disposed of in the following manner :—

(a) if the prize is a money prize, the amount of the prize shall be forthwith paid by the licensee to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund ;

(b) if the prize is not a money prize, it shall be forthwith sold by public auction by the licensee and the proceeds thereof shall be paid by the licensee to the Deputy Secretary to the Treasury to be credited as aforesaid :

Provided, however, that where the licensee is a society and the sale of tickets or chances in the lottery is restricted by the lottery licence to members of that society, the amount referred to in paragraph (a) of this subsection or the proceeds referred to in paragraph (b) of this subsection shall be paid into the funds of that society ;

And provided, further, that nothing in the preceding provisions of this subsection shall apply in any case where any action or proceeding arising out of any claim made in respect of the prize is pending before any court at the expiration of the period aforesaid until such time as that action or proceeding is finally determined and unless the effect of that determination is that the claimant is not entitled to the prize.

(2) No act done in compliance with the provisions of subsection (1) in relation to any prize in any lottery shall subject any promoter or conductor of the lottery, or the Deputy Secretary to the Treasury, to any action, claim, demand or liability whatsoever.

16. The head, secretary, and every member of the governing body, of a society or racing club to which a lottery licence is issued shall each be deemed for the purposes of this Ordinance to promote or conduct every lottery under that licence, and the provisions of this Ordinance shall be construed accordingly.

Persons who are deemed to promote or conduct licensed lotteries.
[§ 8, 2 of 1954.]

17. Fees required by this Ordinance to be prescribed for lottery licences shall be prescribed by the Minister by notification published in the Gazette.

Lottery licence fees.
[§ 8, 2 of 1954.]

18. Any act which is authorized or required to be done by or under this Ordinance by any society or racing club, in its capacity as an applicant for a lottery licence or as a licensee, may be done on behalf of that society or club by the head or secretary thereof, or by any other member or officer of that society or club authorized in writing in that behalf by such head or secretary.

Authorized representatives may act on behalf of societies or racing clubs.
[§ 8, 2 of 1954.]

19. The House of Representatives may by resolution impose a tax (in this Ordinance referred to as a "lottery tax") on the gross proceeds of every lottery. Such tax shall be payable by the promoter or promoters of the lottery and shall be credited to the Consolidated Fund. If such tax is not paid it may be recovered from the promoter or promoters of the lottery as a debt due to the Crown.

Lottery tax.
[§ 8, 2 of 1954.]

Offences in
respect of
licensed
lotteries.
[§ 8, 2 of 1954.]

20. Where—

- (a) any provision of this Ordinance relating to any lottery promoted or conducted under the authority of a lottery licence is contravened, or
- (b) any condition of a lottery licence is not complied with,

every person who is deemed for the purposes of this Ordinance to have promoted or conducted the lottery and, where the person by whom the provision is contravened or the condition is not complied with is not a person who is so deemed to have promoted or conducted the lottery, that person also, shall be guilty of an offence :

Provided, however, that it shall be a defence for a person charged only by reason of his having promoted or conducted the lottery to prove that the offence was committed without his knowledge.

Search
warrants.
[§ 7, 6 of 1944.]

21. (1) Where a Magistrate is satisfied by information on oath that there is reason to suspect that any offence under this Ordinance is being or has been committed in any place or premises, or that there is any document or thing directly or indirectly connected with any such offence in any place or premises, he may issue a search warrant authorizing any person named therein to enter and search such place or premises at any time, with such assistance and using such force as may be necessary, and to search any person found in such place or premises and to seize and detain any document, money, instrument or thing found therein which he has reasonable ground to suppose is directly or indirectly connected with the commission of any offence under this Ordinance and, if he thinks fit, to arrest any person found in such premises or place, who he has reason to suspect is guilty of any such offence.

(2) Where any police officer has reason to suspect that any offence under this Ordinance is being or has been committed in any place or premises, or that there is any document or thing directly or indirectly connected with any such offence in any place or premises,

and that a search warrant cannot be obtained under subsection (1) without giving the offender an opportunity of escaping or of concealing evidence of the offence, he may, after recording the grounds of his suspicion, exercise all or any of the powers which could have been conferred upon him by a search warrant issued under subsection (1).

22. It shall not be competent for any court within Ceylon to try any person for any offence or alleged offence against this Ordinance, unless the prosecution of such person for such offence shall have been expressly authorized by the Attorney-General.

No
prosecution
but by
authority of
Attorney-
General.

23. Every person who commits an offence under this Ordinance 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 term not exceeding six months or to both such fine and imprisonment.

Penalty for
offences
under
Ordinance.
[§ 8, 6 of 1944.]

24. The court before which a person is convicted of any offence under this Ordinance in relation to any lottery shall order to be forfeited to the Crown any money produced before the court which is shown to the satisfaction of the court to represent the price of tickets or prize money or prizes in such lottery and shall order to be destroyed all documents (other than currency notes) produced before the court which are shown to the satisfaction of the court to relate to the promotion or conduct of such lottery.

Forfeiture
of money and
disposal of
productions
before court.
[§ 8, 6 of 1944.]

25. A copy of a lottery licence purporting to be certified to be a true copy by the Permanent Secretary or by any officer on behalf of the Permanent Secretary may be produced in proof of the contents of that licence in any proceedings under this Ordinance.

Proof of
lottery
licences by
production of
certified
copies.
[§ 9, 2 of 1954.]

26. One-half of all fines recovered under the provisions of this Ordinance shall go to the Crown, and the other half to the informers; and if any person

Informers's
share of fine.

upon whom any fine shall be imposed under the provisions of this Ordinance shall fail to pay the same, the informer shall be entitled to receive from the Government Agent the amount of the share of such fine to which he would have been entitled if the same had been paid :

Provided that the said Government Agent shall not be bound to pay in respect of any one such share any sum exceeding the sum of seventy-five rupees.

Informer
competent
witness.

27. No person shall be deemed incompetent to give evidence at the trial of any party for any offence created by this Ordinance by reason of any reward or share to which he would be entitled under the provisions of the preceding section upon the conviction of such party.

Interpretation.

[§ 9, 6 of 1944.]

[§ 10, 2 of 1954.]

28. In this Ordinance—

“governing body”—

(a) in relation to any racing club, means the stewards, for the time being, of that club, and

(b) in relation to any society, means the person or body of persons for the time being charged with the management or administration of the affairs of that society ;

[§ 10, 2 of 1954.]

“head”, in relation to any society or racing club, means the president for the time being of that society or club or, in the absence of a president, the person who for the time being occupies the position of head, by whatever name called, of the management or administration of the affairs of that society or club ;

[§ 10, 2 of 1954.]

“licensee”, in relation to a lottery licence, means the society or racing club to whom such licence has been issued ;

[§ 9, 6 of 1944.]

“lottery” includes any undertaking in the nature of a lottery ;

[§ 10, 2 of 1954.]

“money” includes a currency note, cheque, postal order or money order and any security for money ;

- “Permanent Secretary” means the Permanent Secretary to the Ministry in charge of the Minister ; [§ 10, 2 of 1954.]
- “race-course” and “race-meeting” have the same meaning as in the Betting on Horse-racing Ordinance ; [§ 10, 2 of 1954.]
- “racing club” has the same meaning as in the Betting on Horse-racing Ordinance ; [§ 9, 6 of 1944.]
- “secretary”, in relation to any society or racing club, includes any person who for the time being occupies the position of secretary, by whatever name called ; [§ 10, 2 of 1954.]
- “society” means any society, association, or body of persons, corporate or unincorporate, other than a racing club, established or maintained— [§ 10, 2 of 1954.]
- (a) for the promotion or encouragement of any public, religious, philanthropic, educational or charitable purpose ; or
- (b) for the promotion or encouragement of any game or any sporting or athletic activity ;
- “ticket”, in relation to a lottery, includes any lot, share, figure, number or other document, evidencing the claim of a person to participate in the chances of the lottery ; [§ 10, 2 of 1954.]
- “unlicensed lottery” means any lottery other than a lottery promoted or conducted under the authority of a lottery licence. [§ 10, 2 of 1954.]

CHAPTER 46

GAMING

Ordinances
Nos. 17 of 1889,
37 of 1917,
3 of 1946.

AN ORDINANCE TO PROVIDE FOR THE MORE EFFICIENT
SUPPRESSION OF UNLAWFUL GAMING AND OF COMMON
GAMING PLACES.

[30th June, 1890.]

Short title.

1. This Ordinance may be cited as the Gaming Ordinance.

Unlawful gaming an offence.

2. Whoever commits unlawful gaming shall be punished with fine not exceeding one hundred rupees, or with rigorous imprisonment for a term which may extend to six months, or with both.

Keeping, permitting to be kept, or managing a common gaming place an offence.

3. Whoever—

- (a) being the owner or occupier, or having the use temporarily or otherwise thereof, keeps or uses a place as a common gaming place ; or
- (b) permits a place, of which he is owner or occupier, or of which he has the use temporarily or otherwise, to be kept or used by another person as a common gaming place ; or
- (c) has the care or management of, or in any manner assists in the management of, a place kept or used as a common gaming place,

shall be punished with fine not exceeding five hundred rupees, or with rigorous imprisonment for a term which may extend to one year, or with both.

Persons found committing unlawful gaming may be arrested.

4. All headmen and police officers and all Municipal Council, Urban Council and Town Council inspectors are authorized to arrest and to take before the Magistrate's Court having jurisdiction any person whom he shall find committing the offence of unlawful gaming ; and if he deem it advisable, to search such person so arrested, and to seize any instruments or appliances of

gaming found with him or upon him or near him, and to carry the same before the Magistrate's Court having jurisdiction.

5. (1) A Magistrate, on being satisfied upon written information on oath, and after any further inquiry which he may think necessary, that there is good reason to believe that any place is kept or used as a common gaming place, may by warrant in the form A in the Schedule authorize any person therein named, or any police officer, with such assistance and by such means as may be necessary, by night or by day, to enter or go to such place and to search the same and all persons found therein, and to seize all instruments or appliances for gaming, and all money, securities for money, and other articles reasonably supposed to have been used or intended to be used for any game, which may be found in such place or on any such persons, and also to detain all such persons until they and the said place shall have been searched. If what is made by this Ordinance presumptive evidence of guilt applies to such place or to any person therein, every person found in such place shall be taken before a Magistrate to be dealt with according to law.

Search
warrant
against
premises.

(2) All instruments or appliances for gaming, money, securities for money, and other articles found in a common gaming place, or on any persons found therein or escaping therefrom, and which the Magistrate is of opinion were used or intended to be used for any game, shall be declared by him to be forfeited to the Crown, and shall be dealt with accordingly.

6. (1) A Magistrate may himself do what he may under section 5, authorize a police officer to do, whenever such Magistrate is competent to issue a warrant under the said section, and also in any of the following cases, that is to say :—

Magistrate
may himself
enter and
search.

- (a) if any person has within the preceding six months been convicted of having kept or used as a common gaming place the place purposed to be entered ; or

(b) if the Magistrate receives the required information orally and, either on oath or not on oath, under such circumstances that the object of a search would, in his opinion, be defeated by the delay necessary for reducing the information to writing :

Provided, however, that in the last case the name and address of the person giving such information is known to, or ascertained by, such Magistrate before he acts upon such information.

False
information.

(2) Whoever in giving such oral information makes a statement which he knows or believes to be false, or does not believe to be true, shall be punished with simple or rigorous imprisonment for a term which may extend to twelve months.

Presumptive
proof of
unlawful
gaming.

7. A person found in a common gaming place, or found escaping therefrom on the occasion of its being entered under this Ordinance, or who is found in possession of any instrument or appliance of gaming on the occasion of being searched under section 4 or section 5, shall be presumed, until the contrary is proved, to be guilty of unlawful gaming.

Presumptive
proof
against
occupier.

8. If any instruments or appliances for gaming are found in any place entered under this Ordinance, or upon any person found therein, or if persons are seen or heard to escape therefrom on the approach or entry of any Magistrate, police officer, or person authorized to search such place, or if a Magistrate, police officer, or other person having authority under this Ordinance to enter or go to such place is unlawfully prevented from, or obstructed or delayed in, entering or approaching the same or any part thereof, it shall be presumed, until the contrary is proved, that the place is a common gaming place, and that the same is so kept or used by the occupier thereof.

Charge for
unlawful
gaming.

9. In prosecutions for unlawful gaming, the charge to be framed under section 187 of the Criminal Procedure Code shall be in the form B in the Schedule and the commitment on such charge shall be in the form C in the said Schedule.

10. In prosecutions for keeping a common gaming place, the charge to be framed under the Criminal Procedure Code shall be in the form D in the Schedule and the commitment on such charge shall be in the form C in the said Schedule.

Charge for keeping a common gaming place.

11. Whenever it appears to a Magistrate upon the trial of any offence under this Ordinance that the place in or in respect of which the offence is alleged to have been committed is a common gaming place, and that the same is expressly fitted up and contrived for the purpose of being used as a common gaming place, the Magistrate shall order the demolition of the special fittings and contrivances, and such order shall be in the form E in the Schedule. The demolition shall be effected by some public officer expressly ordered by the Magistrate to effect such demolition.

Magistrate may order demolition of structural contrivances for facilitating gaming.

12. If in any prosecution for the offence of unlawful gaming it shall be alleged, and the Magistrate has reason to believe, that the offence was committed in or upon any licensed premises referred to in subsection (2) (b) of section 22, the person licensed in respect of such premises shall also be made a party accused ; and the Magistrate shall, if he find that the offence was committed in or upon such licensed premises, and was wilfully permitted or countenanced by such licensed person, convict such licensed person of the said offence and sentence him to rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred rupees, or to both.

Liability of licensee of licensed premises wilfully permitting unlawful gaming therein.

13. If in any prosecution for the offence of keeping a common gaming place, the place alleged to have been kept as a common gaming place shall be any licensed premises as in the last preceding section mentioned, the person licensed in respect of such premises shall be made a party accused, and the Magistrate shall, if he find that the offence of keeping a common gaming place was committed in respect of such licensed premises with the acquiescence, permission, or connivance of such licensed person, convict such person of the said

Liability of licensee of licensed premises kept as a common gaming place.

offence, and shall sentence him to rigorous imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred rupees, or to both. In case of a conviction of a licensed person under either this or the last preceding section, his licence shall be thereby forfeited.

Examination
of offenders.

14. (1) It shall be lawful for the Magistrate before whom any person shall be brought, who have been found in any place entered in pursuance of any authority granted under the provisions of this Ordinance, to require any of such persons to be examined on oath and give evidence touching any unlawful gaming in such place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such place or any part thereof of any Magistrate, police officer, or other person authorized as aforesaid; and no person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time, by or before the same or any other Magistrate, or by or before any court, on any proceeding in any wise relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness, who refuses to make oath accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person appearing as a witness before any Magistrate or court in obedience to a summons, and refusing, without lawful cause or excuse, to be sworn or to give evidence, may by law be dealt with.

Indemnity to
person
making full
discovery of
all things as
to which he
is examined.

(2) Every person so required to give evidence who shall in the opinion of the Magistrate make true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the Magistrate, stating that he has made a true and full discovery of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

(3) Any person charged with an offence against this Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

Persons charged may give evidence on their own behalf.

15. All offences under this Ordinance are hereby declared to be cognizable and bailable within the meaning of those terms as defined in the Criminal Procedure Code, and shall be triable summarily by a Magistrate's Court, which is hereby authorized to inflict the penalties herein before provided, anything in the said Code to the contrary notwithstanding.

Offences under the Ordinance cognizable.

16. Nothing in this Ordinance contained shall be construed to make it an offence to play, whether for a stake or not, the games of billiards or bagatelle, or any game which is also an athletic exercise.

No offence to play billiards, bagatelle, &c.

17. The Magistrate may direct any fine or portion of any fine imposed and recovered under this Ordinance to be paid to the informer or informers.

Reward to informer.

18. No criminal prosecution of any person on account of any act purporting to have been done by virtue of the powers conferred by this Ordinance shall be commenced, except with the permission first obtained of the Attorney-General.

No person to be prosecuted for act done under the Ordinance, save with Attorney-General's permission.

19. No action for damages shall lie in any civil court for any act done by any person purporting to act under the provisions of this Ordinance, unless such act be first proved to have been done with express malice.

In civil actions express malice must be proved.

20. No rule framed under the provisions of any existing or future enactment relating to Village Communities for the prevention of "gambling" shall be held to be *ultra vires* on the ground that it conflicts with the provisions of this Ordinance.

Rules under the Village Communities Ordinance saved from the operation of this Ordinance.

Ordinance
not to apply
to clubs, rest-
houses, and
licensed
hotels.

21. Nothing in this Ordinance contained shall be held to apply to or in any way to affect—

- (a) any resthouse in charge of an Urban Council or Town Council, or any proprietary club, if and so long as no promiscuous gaming takes place therein ; or
- (b) any hotel duly licensed under any enactment for the time being in force regulating the licensing of hotels, so long as the licence of such hotel continues in force :

Provided, however, that upon information received by the Government Agent of the administrative district within which a hotel may be licensed that promiscuous gaming has on one or more occasions been carried on in such hotel, whether with the privity of the hotel keeper or not, it shall be lawful for such Government Agent, after due inquiry held, and upon being satisfied of the truth of such information, to withdraw the licence of such hotel, and such licence shall, upon the publication of such withdrawal in the Gazette, be deemed and taken to be withdrawn, and shall be of no further force or effect.

Interpretation.

22. For the purposes of this Ordinance,
“unlawful gaming” shall include—

- (1) cock-fighting, whether for a stake or not, and whether practised publicly or privately ;
- (2) the act of betting or of playing a game for a stake when practised—
 - (a) in or upon any path, street, road, or place to which the public have access, whether as of right or not, or
 - (b) in any premises in respect of which a licence has been granted to distil, manufacture, sell, or possess arrack, rum, toddy, or any intoxicating liquor, or
 - (c) in or at a common gaming place as hereinafter defined ;

“place” shall include any house, office, room, or building, and any place or spot whether open or enclosed, and any ship, boat, or other vessel whether afloat or not, and any vehicle ;

“common gaming place” shall include any place kept or used for betting or the playing of games for stakes, and to which the public may have access with or without payment ; and a place shall be deemed to be “kept or used” for betting or the playing of games for stakes, if it is so used even on one occasion only ;

“instruments or appliances of gaming” shall include cards, dice, balls, counters, tables, boards, or other instruments used in or for the purpose of gaming or betting, or for the playing of games of chance, or for the playing of games of mixed chance and skill ;

“Magistrate” includes a Municipal Magistrate.

SCHEDULE

Form A

To (a) _____.

Whereas credible information has been received by me that the offence of keeping a common gaming place is being committed at (b) _____ :

This is to authorize and require you forthwith to enter and to search (b) _____, and to exercise all and singular the powers conferred upon you by this warrant and by section 5 of the Gaming Ordinance.

(c) _____,

(d) _____.

[Section 5.]

(a) Name and designation of person who is to execute warrant.

(b) Name of place.

(c) Signature of public officer issuing warrant.

(d) Official designation of public officer issuing warrant.

Form B

I, (a) _____, hereby charge you, (b) _____, as follows :

That you, on or about the (c) _____, at (d) _____, unlawfully gamed and thereby committed an offence punishable under section 2 of the Gaming Ordinance.

(e) _____,
Magistrate.

[Section 9.]

(a) Name and office of Magistrate.

(b) Name of accused.

(c) Date of offence.

(d) Name of place where offence occurred.

(e) Signature of Magistrate.

[Sections 9 and 10.]

Form C

(a) Name of province.
(b) Date of conviction.
(c) Name of prisoner.
(d) Name of Magistrate.
(e) Station of Magistrate.
(f) Terms of penalty to which prisoner has been sentenced.
(g) Date of committal.
(h) Signature of Magistrate.

To the Fiscal of the (a) _____ Province.

Whereas on the (b) _____, (c) _____, prisoner in case No. _____, was convicted before me (d) _____, Magistrate, (e) _____, of the offence of { ^{unlawful gaming} keeping a common gaming place } under section { ²/₃ } of the Gaming Ordinance and was sentenced to (f) _____ :

This is to authorize and require you to receive the said (c) _____ into your custody, together with this warrant, and to carry the said sentence into execution according to law.

Given under my hand this (g) _____, 19____.

(h) _____,
Magistrate.

[Section 10.]

Form D

(a) Name and office of Magistrate.
(b) Name of accused.
(c) Date of offence.
(d) Place where offence occurred.
(e) Signature of Magistrate.

I, (a) _____, hereby charge you, (b) _____, as follows :

That you, on or about the (c) _____, at (d) _____, kept a common gaming place, and thereby committed an offence punishable under section 3 of the Gaming Ordinance.

(e) _____,
Magistrate.

[Section 11.]

Form E

ORDER FOR THE REMOVAL OF THE FITTINGS
OF A COMMON GAMING PLACE

(a) Name of place.
(b) Name of public officer designated.
(c) Signature of Magistrate.

Whereas it has been made to appear to me that the place (a) _____ is expressly fitted and contrived for the purpose of being used as a common gaming place, I do hereby direct and require you (b) _____ to demolish such special fittings and contrivances as per list annexed.

(c) _____,
Magistrate.

CHAPTER 47

EXTRADITION

AN ORDINANCE TO PROVIDE FOR THE MORE CONVENIENT
ADMINISTRATION IN CEYLON OF THE EXTRADITION
ACTS, 1870 AND 1873.

Ordinance
No. 10 of 1877.

[12th April, 1878.]

1. This Ordinance may be cited as the Extradition
Ordinance.

Short title.

2. All powers vested in and acts authorized or
required to be done by a police magistrate or any justice
of the peace in relation to the surrender of fugitive
criminals in the United Kingdom of Great Britain and
Northern Ireland under "The Extradition Acts, 1870
and 1873", are hereby vested in, and may in Ceylon be
exercised and done by, any Magistrate, in relation to
the surrender of fugitive criminals under the said Acts.

Powers of
Magistrates in
relation to
extradition
under the
United
Kingdom
Acts, (33 & 34
Vict. c. 52),
(36 & 37 Vict.
c. 60).

CHAPTER 48

EXTRADITION (INDIA)

Act
No. 15 of 1954.

AN ACT TO MAKE THE FUGITIVE OFFENDERS ACT, 1881,
APPLICABLE IN RELATION TO INDIA.

[10th March, 1954.]

Short title.

1. This Act may be cited as the Extradition (India)
Act.

Application
of Fugitive
Offenders
Act, 1881, in
relation to
India.

2. The Fugitive Offenders Act, 1881, enacted by the
Parliament of the United Kingdom and continuing to
be part of the law of Ceylon shall have effect as though
every reference therein to a part of Her Majesty's
dominions includes a reference to the territory of the
Republic of India.

CHAPTER 49

DANGEROUS ANIMALS

AN ORDINANCE TO MAKE PROVISION AGAINST INJURIES BY
DANGEROUS ANIMALS.

Ordinance
No. 38 of 1921.

[24th October, 1921.]

1. This Ordinance may be cited as the Dangerous
Animals Ordinance.

Short title.

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

Interpretation.

“animal” includes a wild animal, provided it is the
property of any person ;

“owner” includes the person having control or
charge of an animal.

3. Whenever a Magistrate, on taking such evidence
as he thinks fit, is satisfied that an animal is dangerous
and not kept under proper control by its owner, such
Magistrate may issue a summons to such owner in the
form in the Schedule.

Magistrate
may issue
summons on
owner of
dangerous
animal.

4. (1) The summons and any order or notice made
or given under this Ordinance shall, if practicable, be
served on the person against whom it is made or to
whom it is to be given in manner provided for service
of a summons by the Criminal Procedure Code.

Service of
summons,
order, or
notice.

(2) If such summons, order, or notice cannot be so
served, it shall be notified by a copy thereof being
posted up at such place or places as may, in the opinion
of the Magistrate, be fittest for conveying the informa-
tion to such person and also by beat of tom-tom.

5. The person to whom such summons is directed
may, within the time specified therein, appear in
accordance with such summons and show cause
against any order as is therein mentioned being made
against him.

Person to
whom
summons is
directed may
appear and
show cause
against order.

Consequence
of failing to
do so.

6. If such person does not appear and show cause as required by the last preceding section, an order for the destruction of the animal shall be made by the court.

Procedure in
case of
appearance.

7. (1) If such person appears and shows cause, the Magistrate's Court shall take evidence in the matter.

(2) If such court is satisfied that such an order would not be reasonable and proper, it shall refuse to make the same.

(3) If the court is satisfied that the animal is dangerous and not kept under proper control, and that in the interests of the public safety it should be destroyed, the court may make an order for the destruction of such animal.

(4) (a) If the court is satisfied that the animal is dangerous, but that the owner thereof is ready and able to keep it under proper control, the court may order such owner to keep the animal under proper control, and may require him to enter into a bond for any sum not exceeding one thousand rupees, with or without sureties, to carry out the terms of such order.

(b) In the event of an owner not carrying out the terms of such order, such bond may be ordered by the Magistrate to be forfeited and recovered in the manner and subject to the conditions provided for the forfeiture of bonds in the Criminal Procedure Code, and an order may be made by the court at the same or some other time for the destruction of the animal.

Procedure on
order for
destruction
being made.

8. When an order for the destruction of a dangerous animal has been made under either of the last two preceding sections, the Magistrate's Court shall give notice of the same to the person against whom the order was made, and shall further inform him that if he does not perform the act directed by the order within a time specified in the notice, the court will proceed to take measures for carrying such order into execution.

Consequence
of disobedi-
ence to order.

9. (1) If such act is not performed within the time specified in the notice issued under the last preceding section, the Magistrate's Court may cause it to be performed, and may recover the costs of performing it by

the distress and sale of any movable property of such person within or without the local limits of the jurisdiction of such court. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by a Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(2) Any police or peace officer or any person authorized by the Magistrate and all persons acting under the directions of any such officer or person may do all things which are necessary for the carrying out of the order, and for any such purpose may enter upon any premises and break down any doors, fences, or other obstacles necessary to enable him or them to seize or approach the animal with the object of carrying out such act as aforesaid.

(3) No suit shall lie in respect of anything done in good faith under this section.

10. An order for the destruction of an animal made under the provisions of this Ordinance shall be subject to appeal in the manner and subject to the conditions laid down in the Criminal Procedure Code.

Appeal.

SCHEDULE

SUMMONS TO OWNER OF DANGEROUS ANIMAL

[Section 3.]

In the Magistrate's Court of _____.

To A. B. of _____.

Whereas the undersigned, Magistrate for _____, having taken evidence, is satisfied that a certain animal, to wit, a _____, of which you are the owner, is a dangerous animal, and is not kept under proper control :

You are hereby commanded to be and appear in person with your witnesses (if any) on _____ the _____ day of _____, 19 _____, at _____, in the _____ noon, at the Magistrate's Court at _____, to show cause why an order should not be made for the destruction of the said animal.

(Signed) _____,
Magistrate.

CHAPTER 50

PROTECTION OF COINAGE

Ordinance
No. 33 of 1917.

AN ORDINANCE TO PROHIBIT THE MELTING DOWN OF GOLD
AND SILVER COIN.

[16th November, 1917.]

Short title.

1. This Ordinance may be cited as the Ceylon
Coinage Ordinance.

Duration.

2. This Ordinance shall continue in force until such
time as the Governor-General^s shall terminate it by
Proclamation in the Gazette.

Penalty for
melting and
breaking up
gold or silver
coins.

3. (1) Any person who shall melt, break up, or use
otherwise than as currency any gold or silver coin
which is legal tender in Ceylon shall be guilty of an
offence, and liable on conviction to a fine not exceeding
one thousand rupees, or to imprisonment of either
description for a period not exceeding two years, or to
both, and to the forfeiture of the coin in respect of
which the offence was committed or of any metal or
other article derived therefrom, together with any
other metal or article with which the material of such
coin may be intermingled.

(2) Any person who knowingly uses, possesses, or
deals with any metal or article which he knows or has
reasonable cause to believe to be derived from any coin
or to be the product in whole or in part of any coin
which has been dealt with in contravention of this
Ordinance shall be guilty of an offence, and liable to
the same penalties and forfeiture as those prescribed
by the last preceding subsection.

(3) This section shall not apply to any coins in actual
use as personal ornaments at the date of the passing of
this Ordinance.

CHAPTER 51

LABOUR INSPECTIONS (MAINTENANCE
OF SECRECY)

AN ACT TO GIVE EFFECT TO A PROVISION OF THE
INTERNATIONAL LABOUR CONVENTION (No. 81)
RELATING TO THE MAINTENANCE OF SECRECY BY
LABOUR INSPECTORS.

Act
No. 17 of 1953.

[27th March, 1953.]

1. This Act may be cited as the Labour Inspections
(Maintenance of Secrecy) Act.

Short title.

2. (1) No officer who, in the exercise or perform-
ance of his powers, functions or duties under any
written law to which this section applies, acquires or
obtains knowledge of or information concerning any
manufacturing or commercial secret, shall, either
while he is holding office or after he has ceased to hold
office, disclose or communicate such secret to any other
person except with the consent of the person carrying
on the business to which such secret relates, or where
such person is a company with the consent of the
manager or other similar officer of the company.

Maintenance
of secrecy
by officers
having
powers of
inspection.

(2) Subsection (1) shall apply to any written law
by which power is conferred on any officer to enter and
inspect any premises, or to call for or obtain informa-
tion, for the purpose of—

- (a) ascertaining whether the provisions of that law
relating to the conditions of work and the
protection of workers while engaged in their
work are complied with, or
- (b) supplying technical information and advice to
employers and workers as regards the most
effective means of complying with such
provisions, or

- (c) bringing to the notice of the competent authority defects and abuses not specifically covered by such provisions.

(3) Every officer who acts in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

TITLE VI ·· EXCISE, POLICE, AND PRISONS

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CHAPTER 52

EXCISE

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE IMPORT, EXPORT, TRANSPORT, MANUFACTURE, SALE, AND POSSESSION OF INTOXICATING LIQUOR AND OF INTOXICATING DRUGS.

[1st January, 1913.]

Ordinances

Nos. 8 of 1912,
25 of 1914,
17 of 1929,
4 of 1931,
3 of 1933,
4 of 1936,
25 of 1938,
27 of 1943,

Acts

Nos. 41 of 1954,
22 of 1955,
9 of 1956.

CHAPTER I

PRELIMINARY

1. This Ordinance may be cited as the Excise Ordinance.

Short title.

2. In this Ordinance, unless there be something repugnant in the subject or context—

Interpretation.

“beer” includes ale, stout, porter, and all other fermented liquors made from malt ;

“country liquor” means any liquor manufactured in Ceylon on which duty of excise has not been levied or is not leviable at the full rate of duty chargeable on like liquor imported into Ceylon from foreign countries ;

“denatured” means effectually and permanently rendered unfit for human consumption ;

“excisable article” means and includes any liquor as defined by this Ordinance ;

“Excise Commissioner” means the officer who has the control of the administration of the Excise Department and of the collection of the excise revenue ;³

“excise officer” means a Government Agent, Assistant Government Agent, or any officer or other person appointed or invested with powers under section 8 ;

“excise revenue” means revenue derived or derivable from any duty, fee, tax, fine (other than

a fine imposed by a court of law), or confiscation imposed or ordered under the provisions of this Ordinance or of any other law for the time being in force relating to liquor ;

[§ 2, 25 of 1938.]

“ export ” means to take out of Ceylon to sea or to foreign territory ;

“ foreign liquor ” includes all liquor other than country liquor :

Provided that, in any case in which doubt may arise, the Minister¹ may by notification declare, whether for the purposes of this Ordinance or any rules made thereunder, any particular liquor shall be deemed to be “ country liquor ” or “ foreign liquor ” ;

“ import ” means to bring into Ceylon from sea or from any place beyond the limits of Ceylon ;

“ liquor ” includes spirits of wine, spirit, wine, toddy, beer, and all liquid consisting of or containing alcohol ; also any substance which the Minister¹ may by notification declare to be liquor for the purposes of this Ordinance ;

“ manufacture ” includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also re-distillation, and every process for the rectification, flavouring, blending, or colouring of liquor ;

“ place ” includes a house, building, shop, tent, boat, or other vessel ;

“ sale ” or “ selling ” includes any transfer otherwise than by way of gift ;

“ spirit ” means any liquor containing alcohol obtained by distillation, whether it is denatured or not ;

to “ bottle ” means to transfer liquor from a cask or other receptacle to a bottle or other receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes re-bottling ;

to “ tap ” includes every part of any process by which the spathe or flower of any toddy-producing tree is prepared for the drawing of toddy ;

“toddy” means fermented or unfermented juice drawn from any coconut, palmyra, kitul, or other kind of palm tree ;

“transport” means to move from one place to another within Ceylon.

3. The Minister¹ may by notification either wholly or partially exempt any excisable article from all or any of the provisions of this Ordinance, either throughout Ceylon or in any specified area, or for any specified period or occasion, or as regards any specified class of persons, and may attach such conditions as he thinks fit to such exemption.

Power of Minister to exempt excisable articles from the provisions of this Ordinance.

4. The Minister¹ may by notification declare, with respect either to the whole of Ceylon or to any local area, and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Ordinance, be the limit of sale by retail and sale by wholesale respectively.

Limits of sale.

5. Nothing contained in this Ordinance shall apply to any canteen, shop, or tavern opened or kept under military or naval regulations, and subject to the supervision of military or naval officers.

Saving of military and naval canteens.

CHAPTER II

ESTABLISHMENT AND CONTROL

6. Except as otherwise provided by this Ordinance, the collection of the excise revenue shall be under the charge of the Government Agent.

The collection of the excise revenue to lie with the Government Agent.

7.⁸ There shall be appointed—

(a) an Excise Commissioner who shall, subject to the general direction and control of the Minister, have the control of the administration of the Excise Department and of the collection of excise revenue, and

Appointment of Excise Commissioner and other officers of Excise Department.

(b) such officers of the Excise Department as may be necessary to give effect to the provisions of this Ordinance.

Powers of Minister.

8. The Minister¹ may by notification applicable to the whole of Ceylon or to any district or local area in which this Ordinance is in force—

May appoint persons other than the Government Agent to exercise all or any of his powers.

(a) appoint any person other than the Government Agent to exercise all or any of the powers and to perform all or any of the duties of a Government Agent in respect of the excise revenue, either concurrently with or in exclusion of the Government Agent, subject to such control as the Minister¹ may direct ;

May appoint officers to take action under sections 33, 35, and 48(a), and other officers.

(b) appoint officers or persons to perform the acts and duties mentioned in sections 33, 35, and 48 (a) ;

(c)¹ set out the designations, powers and duties of officers of the Excise Department under the Ordinance ;

May appoint any Government officer or other person to act as above.

(d) order that all or any of the powers and duties assigned to any officer under paragraphs (b) and (c) of this section shall be exercised and performed by any Government officer or any person ;

May delegate any of his powers to any excise officer.

(e) delegate to any excise officer in whole or in part all or any of his powers under the following sections of this Ordinance :—sections 8 (c), 12, 14, 19, 20, 24, 25 ;

May withdraw powers.

(f) withdraw from any officer or person any or all of the powers conferred or imposed upon him by or under this Ordinance ;

And may permit delegation of powers.

(g) permit the delegation by the Excise Commissioner or by Government Agents of any powers conferred by this Ordinance, or exercised in respect of excise revenue under any enactment for the time being in force.

Orders of Excise Commissioner or Government Agents appealable to Minister.

9. (1) All orders passed by the Excise Commissioner or by a Government Agent under this Ordinance shall be appealable to the Minister¹ in the manner provided by the rules made under section 32 (2) (c).

(2) On any such appeal the Minister¹ may make such orders as the circumstances may require.

CHAPTER III

IMPORT, EXPORT, AND TRANSPORT

10. No excisable article which is liable to the payment of duty under this Ordinance or under the Customs Ordinance, or any other law for the time being in force relating to the duties of customs on goods imported into Ceylon, shall be imported, unless the duty prescribed by such law has been paid, or a bond executed for the payment of such duty.

Import of excisable articles.

11. No excisable article which has been manufactured in Ceylon shall be exported, unless the duty, if any, leviable under this Ordinance or under the Customs Ordinance, has been paid, or a bond executed for the payment of such duty.

Export of excisable articles.

12. The Minister¹ may by notification prohibit the import or export of any excisable article, and may permit the import or export of any excisable article subject to such conditions and to the payment of such duty as he may think fit, and may prohibit the transport of any excisable article from any local area into any other local area.

Prohibition of import, export, and transport of excisable articles.

13. No excisable article exceeding such quantity as the Minister¹ may prescribe by notification, either generally for the whole of Ceylon or for any local area, shall be imported, exported, or transported, except under a pass issued under the provisions of the next following section :

Pass required for import, export, and transport of excisable articles.

Provided that in the case of duty paid foreign liquor other than denatured spirit, such passes shall not be necessary, unless the Minister¹ shall by notification otherwise direct with respect to any local area.

14. (1) Passes for the import, export, or transport of excisable articles may be granted by the Government Agent. Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only.

Passes for import, export, or transport.

(2) Passes granted under this section shall be in such form, and shall contain such particulars, and be granted to such persons as the Minister¹ may by notification prescribe.

CHAPTER IV

MANUFACTURE, POSSESSION, AND SALE

Manufacture of excisable articles prohibited except under provisions of this Ordinance.

[§ 3, 25 of 1938.]

15. Except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Government Agent, or under the provisions of section 20—

- (a) no excisable article shall be manufactured ;
- (b) no toddy-producing tree shall be tapped ;
- (c) no toddy shall be drawn from any tree ;
- (d) no distillery, brewery, or warehouse shall be established or worked ;
- (e) no person shall use, keep, or have in his possession any materials, still, utensils, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy ;
- (f) no liquor shall be bottled for sale.

Establishment of distilleries, breweries, and warehouses.

16. (1) The Excise Commissioner may—

- (a) establish or authorize the establishment of distilleries and breweries in which liquor may be manufactured under a licence granted under section 15 on such conditions as the Minister¹ deems fit to impose ;
- (b) establish or authorize the establishment of warehouses wherein any excisable article may be deposited and kept without payment of duty ; and
- (c) subject to the provisions of sections 27 and 28 discontinue any distillery, brewery, or warehouse.

(2) No distillery, brewery, or warehouse as aforesaid shall be established or worked except by, or under the authority of, the Excise Commissioner.

17. No person not being a licensed manufacturer or vendor of any excisable article shall have in his possession any quantity of any excisable article in excess of such quantity as the Minister¹ under section 4 may declare to be the limit of sale by retail, unless under a permit granted by the Government Agent in that behalf :

Possession of excisable articles in excess of the quantity prescribed by Government prohibited.

Provided that—

- (i) no fee shall be charged for any such permit granted for the possession of such excisable article for bona fide private consumption or use ;
- (ii) nothing in this section extends to any foreign liquor other than denatured spirit in the possession of any common carrier or warehouseman as such, or purchased by any person for his bona fide private consumption and not for sale ;
- (iii) the Minister¹ may by notification prohibit the supply to, or possession by, any person or class of persons, either throughout the whole of Ceylon or in any local area, of any excisable article, either absolutely or subject to such conditions as he may prescribe.

No fee to be charged for permit for possession for private consumption.

Section not to apply to foreign liquor other than denatured spirit.

Prohibition of possession in certain cases.

18. No excisable article shall be sold, or kept or exposed for sale, without a licence from the Government Agent :

Sale of excisable articles without licence prohibited.
[§ 4, 25 of 1938.]

Provided that—

- (a) a person having the right to the toddy drawn from any tree may sell the same without a licence to a person licensed to manufacture and sell toddy under this Ordinance or to a person licensed under this Ordinance to manufacture arrack or vinegar from toddy ;

- (b) a licence for sale in more than one administrative district shall be granted by the Excise Commissioner ;
- (c) nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf, or on behalf of his representatives in interest upon his quitting a station or after his decease.

Exclusive privileges of manufacture, &c., may be granted.

19. (1) The Excise Commissioner may with the approval of the Minister¹ grant to any person on such conditions and for such period as he may deem fit the exclusive privilege—

- (a) of manufacturing, or of supplying by wholesale, or of both ; or
- (b) of selling by wholesale or by retail ; or
- (c) of manufacturing, or of supplying by wholesale, or of both, and of selling by retail,

any country liquor within any local area ; or

- (d) of selling any foreign liquor by retail in a tavern within any local area under a tavern licence prescribed by rule made under section 32 or by direction of the Minister¹ issued under section 25.

(2) No grantee of any privilege under this section shall exercise the same until he has received a licence in that behalf from the Government Agent.

Grantee of toddy privileges may grant licence.

20. When any exclusive privilege of manufacturing and selling toddy has been granted under section 19, the Minister¹ may declare that the written permission of the grantee to draw toddy shall have the same force and effect as a licence from the Government Agent for that purpose under section 15.

Grantee may let or assign.

21. Subject to any conditions imposed by section 19, and subject to the approval of the Government Agent, any grantee of any exclusive privilege may let or assign the whole or any portion of his privilege ; but no lessee

or assignee of such privilege shall exercise any rights as such unless and until the grantee shall have applied to the Government Agent for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

CHAPTER V

DUTIES ON EXCISABLE ARTICLES

22. (1) The House of Representatives¹ may, by resolution, from time to time impose a duty at such rate or rates, either generally or for any specified local area, on any excisable article—

Duties may be imposed by resolution of the House of Representatives.

- (a) permitted to be imported or exported in accordance with the provisions of section 11 or section 12; or
- (b) permitted to be transported; or
- (c) manufactured under any licence granted in respect of paragraphs (a), (b), (c), and (d) of section 15; or
- (d) manufactured in any distillery or brewery established under section 16.

Explanation.—Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption.

(2) The power conferred by subsection (1) to impose by a resolution a duty on any excisable article referred to therein shall include the power—

[§ 2, 27 of 1943.]

- (a) by the same or a subsequent resolution to grant any exemption from the duty and to specify the circumstances in which, and the conditions subject to which, the exemption is granted;
- (b) by a subsequent resolution to amend any earlier resolution so as to increase or reduce the duty or vary the description of the article or the scope of any exemption granted to any class or description of the article or include within or exclude from the scope of the earlier resolution any class or description of such article; and

- (c) by a subsequent resolution to rescind any earlier resolution so as to abolish any duty or withdraw any exemption.

How duty
may be
levied.

23. Subject to such rules regulating the time, place, and manner of payment as the Minister¹ may prescribe, such duty may be levied in one or more of the following ways :—

- (a) with reference to paragraph (a) of section 22 (1)—

(i) by payment of duty either at the place of import or at the place of export, or

(ii) by payment upon issue for sale from a warehouse established under section 16 (1) (b) or licensed under section 15 (d) ;

- (b) with reference to paragraph (b) of section 22 (1)—

(i) by payment in the district from which the excisable article is to be transported, or

(ii) by payment upon issue for sale from a warehouse established under section 16 (1) (b) or licensed under section 15 (d) ;

- (c) with reference to paragraphs (c) and (d) of section 22 (1)—

by duty to be charged in the case of spirit or beer, either—

(i) on the quantity produced in, or issued from, the distillery or brewery, as the case may be, or issued from a warehouse established under section 16 (1) (b) or licensed under section 15 (d), or

(ii) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Minister¹ may prescribe ;

- (d) generally by such other methods of taxation as the House of Representatives¹ may, by resolution, from time to time appoint.

24. Instead of, or in addition to any duty leviable under this Part, the Excise Commissioner¹ may accept payment of a sum in consideration of the grant of any exclusive privilege under section 19.

Payment for exclusive privileges.

CHAPTER VI

LICENCES, &c.

25. Every licence, permit, or pass granted under this Ordinance shall be granted—

Form and conditions of licences, &c.

- (a) on payment of such fees, if any ;
- (b) for such period ;
- (c) subject to such restrictions and on such conditions ; and
- (d) shall be in such form and contain such particulars as the Minister¹ may direct either generally or in any particular instance in this behalf.

26. Every person taking out a licence under this Ordinance may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the authority granting the licence may require.

Counterpart agreement to be executed by licensee.

27. (1) Subject to such restrictions as the Minister¹ may prescribe, the authority granting any licence, permit, or pass under this Ordinance may cancel or suspend it—

Power to cancel or suspend licences, &c.

- (a) if any duty or fee payable by the holder thereof be not duly paid ; or
- (b) in the event of any breach by the holder of such licence, permit, or pass, or by his servants, or by anyone acting with his express or implied permission on his behalf of any of the terms or conditions of such licence, permit, or pass ; or

- (c) if the holder thereof is convicted of any offence under this Ordinance, or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence under the Merchandise Marks Ordinance, or is punished for any offence referred to in section 129 of the Customs Ordinance ; or
- (d) where a licence, permit, or pass has been granted on the application of the holder of an exclusive privilege under this Ordinance on the requisition in writing of such person.

(2) When a licence, permit, or pass held by any person is cancelled under paragraph (a) or paragraph (b) of subsection (1), the authority aforesaid may cancel any other licence, permit, or pass granted to such person under this Ordinance or under any other law for the time being in force relating to excise revenue.

(3) The holder shall be entitled to no compensation for the cancellation or suspension of his licence, permit, or pass under this section, nor to refund of any fee paid or deposit made in respect thereof.

Further
power to
cancel
licences.

28. (1) Whenever the authority stated in section 27 considers that a licence should be cancelled for any cause other than those specified in that section, he shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may cancel the licence either—

- (a) on the expiration of fifteen days' notice in writing of his intention to do so ; or
- (b) forthwith without notice.

(2) If any licence be cancelled under this section, the aforesaid authority may, in addition to remitting such sum aforesaid pay to the licensee such further sum by way of compensation as the Excise Commissioner may direct.

(3) When a licence is cancelled under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount, if any, due to Government.

29. Any holder of a licence to sell under this Ordinance may surrender his licence on the expiration of one month's notice in writing given by him to the Government Agent of his intention to surrender the same, and on payment of the fee payable for the licence for the whole period for which it would have been current but for such surrender :

Surrender of licence.

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

CHAPTER VII

GENERAL PROVISIONS

30. (1) Every person who manufactures or sells any excisable article under a licence granted under this Ordinance shall be bound—

Certain licensees required to keep instruments for testing, &c.

(a) to supply himself with such measures, weights, and instruments as the Minister¹ may prescribe, and to keep the same in good condition ; and

(b) when such measures, weights, and instruments have been prescribed, on the requisition of any excise officer duly empowered in that behalf, at any time to measure, weigh, or test any excisable article in his possession in such manner as the said excise officer may require.

(2) The Minister¹ may, under this section, prescribe measures, weights, and instruments, in addition to or other than those provided for by the Weights and Measures Ordinance.

31. (1) In case of default made by a holder of a licence or by a grantee of an exclusive privilege in the payment of any duty or fee, or in the performance of all or any of the terms or conditions of such licence or grant, the Government Agent may, if he thinks fit, without process of law, after fifteen days' notice in writing to the licensee or grantee of his intention to do so, take the licence or grant under management at

Procedure in case of default by licensee or grantee of exclusive privilege.

the risk of the defaulter, or may declare the licence or grant forfeited, and re-issue or re-sell it at the risk and loss of the defaulter.

(2) When a licence or grant is under management under this section, the Government Agent may recover as excise revenue any moneys due to the defaulter by any lessee or assignee.

Power to
make rules.

32. (1) The Minister¹ may make rules for the purpose of carrying out the provisions of this Ordinance or other law for the time being in force relating to excise revenue ; and all such rules shall be laid as soon as conveniently may be before the Senate and the House of Representatives,¹ and upon being confirmed, with or without modification, by a resolution of the Senate and the House of Representatives,¹ and upon such confirmation being notified in the Gazette, shall have the force of law from the date of such notification, or upon such date as may be therein fixed :

Provided that in any case of urgency the Minister¹ may by notification declare any such rules to be in force from a date named therein, and such rules shall thereupon come in force on such date ; but if within forty days of the date upon which such rules are laid before the Senate and the House of Representatives¹ a resolution be passed by either House¹ praying that all or any of such rules be modified or annulled, such rules or rule shall thenceforth be modified or annulled accordingly, but without prejudice to anything done thereunder.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Minister¹ may make rules—

- (a) regulating the delegation of any powers by the Excise Commissioner or by Government Agents under section 8 (g) ;
- (b) prescribing the powers and duties of officers of the Excise Department ;
- (c) prescribing the procedure in appeals from orders of the Excise Commissioner or the Government Agents to the Minister ;¹
- (d) regulating the import, export, or transport of any excisable article ;

- (e) regulating the manufacture, bottling, supply, or storage of any excisable article, including—
 - (i) the erection, inspection, supervision, management, and control of any place for the manufacture, bottling, supply, or storage of such article, and the fittings, implements, and apparatus to be maintained therein,
 - (ii) the tapping of toddy-producing trees and the drawing of toddy from such trees ;
- (f) regulating the deposit of any excisable article in a warehouse, and the removal therefrom, of such article ;
- (g) regulating the periods and localities for which licences for the wholesale or retail sale of any excisable article may be granted ;
- (h) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted for any locality ;
- (i) prescribing in the case of any excisable article the way in which the duty on such article shall be levied ;
- (j) prescribing the scale of fees, or the manner of fixing the fees, payable in respect of any privilege, licence, permit, or pass or of the storing of any excisable article ;
- (k) regulating the time, place, and manner of payment of any duty or fee ;
- (l) prescribing the restrictions under and the conditions on which any licence, permit, or pass may be granted, including—
 - (i) the prohibition of the admixture with any excisable article of any substance deemed to be noxious or objectionable,
 - (ii) the fixing of the strength, price, or quantity in excess of or below which any excisable article shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any excisable article,

- (iii) the prohibition of the employment by the licence holder of any person or class of persons to assist him in his business in any capacity whatsoever,
 - (iv) the prescription of the persons to whom any excisable article may or may not be sold,
 - (v) the prohibition of sale except for cash,
 - (vi) the prevention of drunkenness, gambling, or disorderly conduct in or near any licensed premises, and the meeting of or remaining of persons of bad character in such premises,
 - (vii) the prescription of the days and hours during which any licensed premises may or may not be kept open, and provision for the closure of such premises on special occasions,
 - (viii) the prescription of the nature of the premises in which any excisable article may be sold, and the notices to be exposed at such premises, and
 - (ix) the prescription of the accounts to be maintained and the returns to be submitted by licence holders ;
- (m) (i) declaring the process by which spirit manufactured in Ceylon shall be denatured,
- (ii) for causing such spirit to be denatured through the agency or under the supervision of Government officers,
- (iii) for ascertaining whether such spirit has been denatured ;
- (n) providing for the destruction or other disposal of any excisable article deemed to be unfit for use ;
- (o) regulating the disposal of confiscated articles ;
- (p) prescribing the instruments to be used in the testing of liquors, and the tables of corrections according to temperature to be used therewith.

CHAPTER VIII

POWERS AND DUTIES OF OFFICERS, &c.

33. The Excise Commissioner or a Government Agent or any excise officer not below such rank as the Minister¹ may prescribe, or any police officer duly empowered in that behalf, may enter and inspect at any time by day or by night any place in which any licensed manufacturer carries on the manufacture of or stores any excisable article; and may enter and inspect at any time during which the same may be open any place in which any excisable article is bottled or kept for sale by any licensed person; and may examine, test, measure, or weigh any materials, still, utensil, implement, apparatus, or excisable article found in such place of manufacture, bottling, or sale.

Power to enter and inspect places of manufacture, bottling, and sale.

34. (1) Within such specified area as the Minister¹ by notification may direct any excise officer not below such rank as the Minister¹ may prescribe shall, within the limits of the area to which he is appointed, and as regards all offences under this Ordinance, exercise the powers that may be exercised in respect of cognizable offences by an inquirer, or by an officer in charge of a police station, under the provisions of Chapter XII of the Criminal Procedure Code.

Powers of excise officers in matters of arrest and inquiry.

(2) An inquiry under this section shall be held at or in the neighbourhood of the place in which the offence is alleged to have been committed.

35. (1) Any officer of the Excise, Police, Customs, or Revenue Departments, not below such rank and subject to such restrictions as the Minister¹ may prescribe, and any other person duly empowered, may arrest without warrant any person found committing, in any place other than a dwelling house, an offence punishable under section 46 or section 47; and may seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Ordinance or other law for the time being in force relating to excise revenue; and may search

Cases in which offenders may be arrested, and contra-band liquor and articles seized without warrant.

any person upon whom, and any vessel, vehicle, animal, package, receptacle, or covering in or upon which, he may have reasonable cause to suspect any such article to be and, for the purposes of such search, may stop any such person, vessel, vehicle or animal.

(2) The driver of any vehicle or vessel who fails or refuses to stop or to halt such vehicle or vessel when directed to do so either verbally or by signal by an excise officer not below the rank of Inspector wearing his uniform and acting in execution of his duty, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty rupees or in default of payment of such fine to simple imprisonment for a term which may extend to six weeks.

(3) In this section "vehicle" includes any carriage coach, cart, motor car, motor cycle, omnibus, lorry, bicycle, or other mechanically propelled vehicle and the "driver" of a vehicle includes the rider of a motor cycle or of a bicycle; and "signal" includes one or more blasts of a whistle.

Government Agent or Magistrate may issue a search warrant.

36. If a Government Agent or a Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under section 46 or section 47 has been or is likely to be committed, he may issue a warrant for the search for any excisable article, materials, still, utensil, implement, or apparatus in respect of which the alleged offence has been or is likely to be committed, or any paper or document relating thereto; and for the taking into custody and carrying before such an officer as is referred to in section 34 of this Ordinance any person who appears to have been privy to the commission of the offence.

Power of excise officers to search without a warrant.

37. Whenever a Government Agent or any excise officer not below such rank as the Minister¹ may prescribe has reason to believe that an offence under section 46 or section 47 has been, is being, or is likely to be, committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he

may, after recording the grounds of his belief, at any time by day or night, enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Ordinance ; and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

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

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

[§ 5, 25 of 1938.]

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

- (a) a tapper is found upon such tree ; or
- (b) any person agrees in writing to pay within twenty-four hours the duty or fee, as the case may be, for a licence authorizing the manufacture of fermented toddy from that tree together with the penalty imposed under subsection (4).

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

- (a) an officer of the Excise Department whose rank is higher than that of an Excise Inspector ; or
- (b) an authorized officer who is an officer of the Revenue Department ; or
- (c) the Mayor or Chairman, as the case may be, of the local authority within the limits of which the fermented toddy is found ; or
- (d) the member of the local authority for the ward or division, as the case may be, within the limits of which the fermented toddy is found ; or

(e) a person (other than an officer in the service of the Government) appointed under paragraph (b) of section 8 ; or

(f) a Justice of the Peace.

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

(a) an officer of the Revenue Department of a rank not below that of Chief Headman or Muhandiram ; or

(b) an authorized officer who is an officer of the Excise Department ; or

(c) any one of the persons specified in paragraphs (c), (d), (e) and (f) of subsection (2).

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

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

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

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

The provisions of this subsection shall be read and construed as supplemental to the provisions of section 59.

(7) In this section—

“authorized officer” means—

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

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

“Tree Tax Area” means any area in which the duties for the time being imposed by resolution under section 22, or the fees the payment of which may for the time being be directed by the Minister¹ under section 25, in respect of any licence authorizing the manufacture of fermented toddy from any trees, are to be determined by reference to the number of trees to be tapped under such licence.

39. Every excise officer may release any person arrested under this Ordinance on bail or on such person executing a bond with or without sureties.

Release of arrested persons by excise officers.

[§ 2, 41 of 1954.]

40. The provisions of the Criminal Procedure Code, relating to arrests, searches, search warrants, the release of persons arrested on bail or on the execution of bonds, the production of persons arrested, and the investigation of offences shall be held to be applicable to all action taken in these respects under this Ordinance.

Arrests, searches, &c., how to be made.

[§ 3, 41 of 1954.]

41. All offences under this Ordinance shall be bailable within the meaning of the Criminal Procedure Code, and the provisions of that Code in respect of bail shall be applicable thereto.

Offences to be bailable.

Officers of certain departments bound to report offences and to assist.

42. Every officer of the Police, Customs, and Revenue Departments, and every peace officer, shall be bound to give immediate information to an excise officer of all breaches of any of the provisions of this Ordinance which may come to his knowledge, and to aid any excise officer in carrying out the provisions of this Ordinance upon request made by such officer.

Landholders and others to give information.
[§ 2, 9 of 1956.]

43. (a) All proprietors, tenants, under-tenants, and cultivators who own or hold land on which ;

(b) all persons entitled, under a licence or a permit or any other document whatsoever, to the produce of, or to tap, palm trees on any land on which ; and

(c) all village headmen in whose village—

[§ 6, 25 of 1938.]

there shall be any manufacture of any excisable article not licensed under this Ordinance, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Excise, Police, or Revenue Departments, immediately the same shall have come to their knowledge.

Police to take charge of articles seized.

44. All officers in charge of police stations shall take charge of and keep in safe custody, pending the orders of a Magistrate or of the Government Agent, all articles seized under this Ordinance which may be delivered to them ; and shall allow any excise officer who may accompany such articles to the police station, or may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Closure of licensed premises.
[§ 7, 25 of 1938.]

45. (1) The Government Agent may, by notice in writing addressed to any person to whom a licence has been issued authorizing the sale of any excisable article at any premises, order such person to close such premises and to refrain from selling or supplying any

excisable article from such premises at such time or for such period as may be specified in the notice—

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

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

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

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

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

CHAPTER IX

PENALTIES

Penalties for
illegal import,
&c.

46. Whoever, in contravention of this Ordinance or of any rule or order made under this Ordinance, or of any licence, permit, or pass obtained under this Ordinance—

- (a) imports, exports, transports, or possesses any excisable article ; or
- (b) manufactures any excisable article ; or
- (c) taps any toddy-producing tree ; or
- (d) draws toddy from any tree ; or
- (e) establishes or works any distillery, brewery, or warehouse ; or
- (f) uses, keeps, or has in his possession any materials, still, utensil, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy ; or
- (g) sells or keeps or exposes for sale any excisable article ; or
- (h) bottles any liquor for purposes of sale,

shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both, and where the act hereby penalized is continued after conviction, he shall be liable to the aforesaid punishment for each day on which the offence is so continued.

For illegal
possession.

47. Whoever without lawful authority has in his possession any quantity of any excisable article which has been unlawfully imported, transported, or manufactured, or on which the prescribed duty has not been paid, shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to six months or to fine which may extend to one thousand rupees, or to both.

48. Whoever, being the holder of a licence, permit, or pass granted under this Ordinance, or being in the employ of such holder and acting on his behalf—

For misconduct by licensee, &c.

- (a) fails to produce such licence, permit, or pass on the demand of any excise officer, or of any other officer duly empowered to make such demand ; or
- (b) wilfully contravenes any rule made under section 32 ;
- (c) wilfully does or omits to do anything in breach of any of the conditions of the licence, permit, or pass not otherwise provided for in this Ordinance,

shall be guilty of an offence, and be liable on conviction to imprisonment of either description which may extend to three months, or to fine which may extend to two hundred rupees, or to both ; and, in the case of an offence continued after conviction, to such punishment as aforesaid for each day on which the offence is so continued.

49. (1) Any excise officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall be guilty of an offence, and be liable on conviction to imprisonment of either description which may extend to three months, or to fine which may extend to six months' pay, or to both.

For excise officer refusing to do duty or being guilty of cowardice.

(2) Any excise officer who shall—

Offences by excise officers.

- (a) wilfully fail in his duty to report any offence against this Ordinance or any rule or order made thereunder ; or
- (b) connive at the commission of any offence against this Ordinance,

shall be liable on conviction to imprisonment of either description which may extend to six months, or to fine which may extend to one year's pay, or to both.

For offences
not otherwise
provided for.

50. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Ordinance, or of any rule or order made under this Ordinance, and not otherwise provided for in this Ordinance, shall on conviction be liable to fine which may extend to one hundred rupees, or, in default of payment of the fine, to imprisonment which may extend to six months, and, in the case of an offence continued after conviction, to such punishment as aforesaid for each day on which the offence is so continued.

Enhanced
punishment
after previous
conviction.

51. If any person, after having been previously convicted of an offence punishable under section 46 or section 47, subsequently commits and is convicted of an offence punishable under either of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Ordinance :

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XVIII of the Criminal Procedure Code, from being so tried.

Prosecution
restricted.

52. (1) No Magistrate shall take cognizance of an offence punishable—

- (a) under sections 46, 47, or 50, except on his own knowledge or suspicion, or on the complaint or report of an excise officer ; or
- (b) under section 48 or section 49, except on the complaint or report of the Excise Commissioner, Government Agent, or an excise officer authorized by either of them on that behalf.

(2) Except with the special sanction of the Attorney-General,¹ no Magistrate shall take cognizance of any offence punishable under this Ordinance unless the prosecution is instituted within a year after the commission of the offence.

Presumption
as to commis-
sion of offence
in certain
cases.

53. (1) In prosecutions under section 46 it shall be presumed, until the contrary is proved, that the accused person has committed an offence under that section in respect of—

- (a) any excisable article ; or

- (b) any still, utensil, implement, or apparatus whatsoever for the manufacture of any excisable article other than toddy ; or
- (c) any such materials as are ordinarily used in the manufacture of any excisable article,

for the possession of which, or for his conduct in connection with which, he is unable to account satisfactorily ; and the holder of a licence, permit, or pass under this Ordinance shall be punishable, as well as the actual offender, for any offence under section 46 or section 47 or section 48 committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punished with imprisonment, except in default of payment of fine.

(2) Where a person who is bound to give notice under section 43 of this Ordinance is prosecuted for the offence of intentionally omitting to give such notice in contravention of that section, it shall be presumed, until the contrary is proved, that such person has intentionally omitted to give such notice if an excise officer of a rank not below that of Superintendent certifies in writing under his hand, after such investigation as he may deem necessary, that he is satisfied that such person has omitted to give such notice.

[§ 3, 9 of 1956.]

54. (1) Whenever an offence has been committed under this Ordinance, the excisable article, materials, still, utensil, implement, or apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

What things
liable to
confiscation.

(2) Any excisable article lawfully imported, transported, manufactured, had in possession, or sold along with, or in addition to, any excisable article liable to confiscation under this section, and the receptacles, packages, and coverings in which any such excisable article, materials, still, utensil, implement, or apparatus as aforesaid is found, and the other contents, if any, of the receptacles or packages in which

the same is found, and the animals, carts, vessels, or other conveyance used in carrying the same, shall likewise be liable to confiscation.

Confiscation
how ordered.

55. (1) When in any case tried by him the Magistrate decides that anything is liable to confiscation under the foregoing section, he may order confiscation, or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as he thinks fit.

(2) When an offence under this Ordinance has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Ordinance and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Government Agent, who may order confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto, and evidence, if any, which he produces in support of his claim ;

Provided further, that if the thing in question is liable to speedy and natural decay, or if the Government Agent is of opinion that the sale would be for the benefit of its owner, the Government Agent may at any time direct it to be sold ; and the provisions of this subsection shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to
compound
offences.

56. The Government Agent or any excise officer specially empowered by the Minister¹ in that behalf may accept from any person whose licence, permit, or pass is liable to be cancelled or suspended under section 27, or who is reasonably suspected of having committed an offence under section 48 or section 50, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be ; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Ordinance may release the

same on payment of the value thereof as estimated by such officer. On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

57. All offences under this Ordinance shall be summarily triable by Magistrates, who shall have power to award the punishments herein prescribed, anything in the Criminal Procedure Code, or any other enactment to the contrary notwithstanding.

Offences to be summarily triable by Magistrates.

CHAPTER X

MISCELLANEOUS

58. Nothing in the foregoing provisions of this Ordinance applies to the import, manufacture, possession, sale, or supply of any bona fide medicated article for medicinal purposes by medical practitioners, chemists, druggists, pharmacists, apothecaries or keepers of dispensaries; but the Minister¹ may by notification prohibit throughout Ceylon or within any local area the import, manufacture, possession, supply, or sale of any such article either absolutely or except under such conditions as he may prescribe, and the provisions of this Ordinance shall thereafter apply to any article so prohibited.

Ordinance does not apply to bona fide medicated articles.

59. No action shall lie against the Government of Ceylon or against any excise officer for damages in any civil court for any act bona fide done or ordered to be done in pursuance of this Ordinance, or of any law for the time being in force relating to excise revenue; and all prosecutions of any excise officer, and all actions which may be lawfully brought against the Government of Ceylon or against any excise officer, in respect of anything done in pursuance of this Ordinance, shall be instituted within six months from the date of the act complained of, and not afterwards.

Bar of actions.

Excise
notifications
to be judi-
cially noticed.
[§ 8, 25 of 1938.]

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

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

(3) Where an excise notification is printed—

(a) in any Excise Manual or other book or document purporting to be printed by authority or on the orders of Government or by the Government Printer or at the Ceylon Government Press ; or

(b) in any document purporting to be an extract from any issue of the Gazette,

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

(4) In this section—

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

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

CHAPTER 53

POLICE

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT AND
REGULATION OF A POLICE FORCE IN CEYLON.

Ordinances

Nos. 16 of 1865,
7 of 1866,
18 of 1871,
6 of 1873,
7 of 1873,
3 of 1875,
1 of 1878,
7 of 1880,
1 of 1883,
3 of 1883,
13 of 1884,
11 of 1886,
23 of 1891,
4 of 1897,
13 of 1905,
22 of 1906,
14 of 1907,
17 of 1908,
7 of 1910,
17 of 1912,
12 of 1914,
39 of 1916,
40 of 1921,
14 of 1924,
20 of 1927,
12 of 1933,
21 of 1939,
36 of 1945,
22 of 1947,

Acts

Nos. 15 of 1949,
50 of 1954,
32 of 1956.

[1st January, 1866.]

PRELIMINARY

1. This Ordinance may be cited as the Police Ordinance.

Short title.

2. So soon as any of the provisions of this Ordinance shall be brought into operation within any town, village, or limits, or part of any town or village, all laws, customs, and usages which may then be in force therein, so far as they are in anywise repugnant to or inconsistent with the provisions of this Ordinance, shall be revoked, abrogated, and repealed.

Laws and customs repugnant to this Ordinance repealed.

GENERAL POLICE FORCE

Establishment
of police
force.

3. It shall be lawful for the Minister,¹ from time to time, as occasion may require, to establish, by Order¹ published in the Gazette, a police force for the effectual protection of person and property within such towns as to him shall appear to require the same. Whenever such force shall be so established within any town this Ordinance shall come into operation therein :

Provided that no Order¹ shall be necessary to establish the force in places where the same shall have been already established under the Ordinance No. 17 of 1844, to which this Ordinance shall apply.

Police force
may be
established
in certain
places, though
not main-
tained in the
manner
prescribed in
this
Ordinance.

4. It shall be lawful for the Minister,¹ by Order¹ published in the Gazette, to establish a police force in any place other than large towns, though such force be not maintained in the manner prescribed by this Ordinance, and to declare that certain of the provisions of this Ordinance shall come into operation at such place, specifying the limits thereof, and such Order¹ from time to time to revoke, alter, or amend.

Police in
rural
districts.

5. It shall be lawful for the Minister¹ to establish a police force in any rural district, and to cause the same to be maintained in the manner hereinafter prescribed.

Quartering of
police in
disturbed or
dangerous
districts, or
districts the
inhabitants of
which
misconduct
themselves.

6. It shall be lawful for the Minister,¹ by Order¹ published in the Gazette, to quarter police, or, should a police force have been already established there, to increase the same, in any part of Ceylon which shall be found to be in a disturbed or dangerous state, or in any part in which, from the misconduct of the inhabitants (whether in harbouring offenders or suspected persons, refusing to aid in their apprehension, or otherwise), he may deem it expedient so to do ; and the inhabitants of the parts of Ceylon in which the police or the additional number of men as aforesaid shall be so quartered, shall be charged with the cost of the men ; and the Government Agent to whose district such part belongs, but not any Assistant Government Agent, shall assess the proportion in which such cost is to be paid by the inhabitants according to his judgment of their respective means.

7. Whenever any large work shall be carried on or be in operation in any part of the country, and it shall appear to the Inspector-General of Police that the employment of an additional police force in the neighbourhood of such large work is rendered necessary by the behaviour or reasonable apprehension of the behaviour of persons employed upon such large work, it shall be lawful for the Inspector-General of Police, with the approval of the Minister¹ to direct the employment of such additional police force, and to maintain the same so long as the necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds of any company or person carrying on such large work for the payment of the extra force so rendered necessary as aforesaid.

Power to employ additional police force.

8. The term "large work" shall, unless the context otherwise requires, include any railway, tramway, manufactory, any plumbago mining or other commercial business or concern in which a considerable number of artisans, operatives, workmen, coolies, or persons are employed.

Meaning of "large work".

9. It shall be lawful for the Minister,¹ by Order¹ published in the Gazette, from time to time to declare that such of the provisions of this Ordinance as to him may seem advisable shall come into operation throughout Ceylon, or in any province, district, town, or place as shall appear to him to require the same, though there be no police force established therein.

Some of the provisions only of this Ordinance may be brought into operation in any place.

10. The Order¹ establishing a police force in any town shall also specify and define the limits of such town, and it shall be lawful for the Minister,¹ from time to time as occasion may require, by Order,¹ to alter or vary such limits.

Definition of limits of town.

POLICE IN RURAL DISTRICTS

11. For the purposes of this part of this Ordinance, the word "proprietor" shall mean the sole or any joint owner of an estate, and the word "estate" shall mean

Interpretation.

a tract of land exceeding twenty-five acres, belonging to one person or to several persons, cultivated or uncultivated, and forming a separate or distinct property.

Application
to bring
districts
under the
operation of
this
Ordinance.

12. The proprietor of any estate situated in any district or locality may make application, in writing, to the Government Agent of the district in which such estate is situated that a police force should be established in the said district, and shall set forth in such application the name of the district, the names of all estates therein, the names of the proprietors, or (if the same be unknown) of the resident managers thereof, the probable extent of the land belonging to such estates, and the number of men to form the force which, in the opinion of the applicant, will be required to be stationed therein for the purposes of the district.

Proceedings
thereon.

13. On receipt of such application, the Government Agent shall give such public notice as he thinks necessary of his intention to define the limits of the district, the estates in which will, if the proposal to establish a police force in the said district be adopted by the proprietors of at least two-thirds of the acreage of the estates in any such district as hereinafter provided, become and be severally bound and liable for the amount of contribution towards the maintenance of the police force which the said estates may be afterwards assessed at, in manner provided by this Ordinance ; and in such notice the Government Agent shall appoint the time and place when and where he will attend to receive, inquire into, and consider the objections of any proprietor against his estate being included within the limits of such district ; and the said Government Agent, after making such inquiry as he may deem requisite, and considering any such objections, shall proceed to define the limits of such district, and shall enter a description of such limits in the minutes of his proceedings, and shall thereupon transmit a requisition to the proprietor of every estate within the limits of such district so defined as aforesaid (or, in case of his absence from Ceylon, to the resident manager, or, if there be no resident manager, to the agent in Ceylon of the proprietor, if any, or if there

be no known agent, shall cause the requisition to be affixed in some conspicuous part of the estate), calling upon him to declare in writing, within such time as shall be therein specified, whether he desires that a police force should be established in the said district, and to specify the provisions of the Ordinance which ought, in his opinion, to be introduced therein. If no answer be sent to the Government Agent within the time limited by such requisition, the person to whom the same was forwarded shall be deemed and taken to have concurred in the proposal referred to therein.

14. If it shall appear to the Government Agent, from the replies to such requisitions, or otherwise, as aforesaid, that a majority, consisting of the proprietors of at least two-thirds of the acreage of estates in any district, are desirous that a police force should be established in the said district, the said Government Agent shall forthwith forward such application to Government, together with his report as to the necessity for locating a police force in the district, and as to the number of men to compose such force, and the amount in money required for its upkeep; and thereupon it shall be lawful for the Minister,¹ by Order¹ published in the Gazette, to establish a police force in such district, from such time as shall be therein named, and to introduce such of the provisions as the Minister¹ shall consider expedient in such district, and such provisions shall accordingly come into force at the time so named. The Minister¹ may revoke, alter, or amend such Order.¹

If two-thirds concur, the application to be forwarded to Government with Government Agent's report.

Order thereon.

15. On such Order¹ being published, the Government Agent shall proceed to assess the proportion due by each estate, by dividing the sum of money equal to a moiety of the total cost of maintaining such force in the district by the total number of acres of the estates in the district, and thus apportioning the amount due by each estate; and the rate so assessed shall be binding and conclusive on all proprietors of estates in such district; and the Government Agent shall thereupon transmit a notice to the proprietor of each estate (or in case of his absence from Ceylon, to the resident manager, or if there be no resident manager, to the agent in Ceylon of the proprietor, if any,

The Government Agent to assess the proportion due by each estate.

or if there be no known agent, he shall cause such notice to be affixed in some conspicuous part of the estate), informing him of the yearly amount of contribution due by him to make up the proportion payable by the district, and the date when the first quarterly instalment is payable as hereinafter provided.

Date of payment of contribution.

16. The amount due by each estate for a year shall be payable in advance by quarterly instalments, the first instalment on such day as shall be fixed in the notice above mentioned, and the other instalments at the commencement of each successive quarter.

Mode of recovery in case of default.

17. If the amount so due as aforesaid shall not be paid when due, the same shall be recovered in the manner provided by sections 41, 42, 49, 50, 51.

Alteration of the limits of district after original assessment.

18. Should it be found necessary at any time after the original assessment to alter the limits of any district, or to reduce or increase the force therein, it shall be lawful for the Minister¹ to do so; and the Government Agent shall give the same notice of such alteration, and of the new rates payable in consequence, as he is herein required to give of the original proceedings; and such notice shall be served and such new rates recovered in the same way as are herein prescribed in respect of the original notice and rates.

Discontinu-
ance of force
in any
district.

19. For the purpose of discontinuing the police force when introduced into any district under this Ordinance, the same course shall be taken as is prescribed in this Ordinance for its introduction, and if the demand for its withdrawal be adopted by the proprietors of two-thirds of the acreage, the said Government Agent shall forthwith notify to Government that the required majority is in favour of the withdrawal of the police force; and thereupon it shall be lawful for the Minister,¹ by Order¹ published in the Gazette, to direct that the employment of the said police force in the said district shall cease and determine from the date fixed in the Order.¹ But nothing herein contained shall prevent proceedings being afterwards taken for the re-establishment of a force in the manner recognized by this Ordinance for the original establishment of a force in any district.

Its re-
establishment.

POLICE OFFICERS

20. The administration of the police in Ceylon shall be vested in the Inspector-General of Police, Superintendents and Assistant Superintendents of Police, inspectors, sergeants, and constables.

Officers in whom the administration of police is vested.

21.³ (1) There shall be appointed an Inspector-General of Police and such Deputy Inspectors-General of Police, Superintendents, Assistant Superintendents, inspectors, and other officers as may be necessary for the purposes of this Ordinance.

Appointment of officers for the purposes of this Ordinance.

(2) A Deputy Inspector-General of Police shall discharge such functions of the Inspector-General of Police as the Inspector-General of Police may from time to time assign to him.

(3) In this Ordinance or any other written law "Inspector-General of Police" shall be deemed to include a Deputy Inspector-General of Police.

22. It shall be lawful for the Inspector-General of Police or any Superintendent, if he shall think fit, on the application of any person showing the necessity thereof, to appoint any additional number of police officers to keep the peace, at the charge of the person making the application, but to be under the orders of the Inspector-General of Police or Superintendent and for such time as they shall think fit:

Additional police officers to be employed at the cost of individuals.

Provided that it shall be lawful for the person on whose application such appointment shall have been made, on giving one month's notice in writing to such Inspector-General of Police or Superintendent to require that the officer so appointed shall be discontinued, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

23. If upon demand any person refuses or fails to pay the sum due by him for maintaining the force under sections 6, 7, and 22, the Inspector-General of Police or Superintendent shall report such refusal or failure

Recovery of expense under sections 6, 7, and 22.

to the nearest Magistrate's Court, which shall proceed to recover such sum as if it were a fine imposed by that court.

Special
police
reserve.
[§ 2, 15 of 1949.]

24. (1) The Inspector-General of Police may from time to time, with the approval of the Minister, by order authorize the establishment of a special police reserve for the area comprised within any province or district.

(2) Where the establishment of a special police reserve for any area is authorized under subsection (1), the Superintendent or Assistant Superintendent of Police in charge of that area, or any Justice of the Peace and Unofficial Magistrate who is requested so to do by such Superintendent or Assistant Superintendent, may in writing appoint, as officers of the special police reserve for that area such fit and proper persons resident in that area as may consent to be so appointed.

(3) The number of persons appointed to be officers of the special police reserve for any area shall not exceed such number as the Inspector-General of Police may consider necessary.

(4) The Superintendent or Assistant Superintendent of Police in charge of any area may, whenever he considers it necessary so to do, by notice given whether orally or in writing, call out for service in that area any one or more of the officers of the special police reserve for that area.

For the purposes of section 25, the period of service of any officer so called out shall commence on the date specified in such notice by the Superintendent or Assistant Superintendent and shall terminate on a date to be specified by him by a subsequent notice, but without prejudice to the power of the Superintendent or Assistant Superintendent, in manner herein before provided, to call out such officer for further service.

Duties, &c.,
of officers of
reserve.
[§ 2, 15 of 1949.]

25. (1) Every officer of the special police reserve for any area who is called out for service under section 24 shall during his period of service be liable to perform in that area the same duties as an ordinary officer

of police, and shall accordingly during that period have the same powers, privileges and protection, be liable to the same penalties, and be subordinate to the same authority, as an ordinary officer of police.

(2) It shall be lawful for the Inspector-General, with the approval of the Minister, to make such rules and issue such orders relating to the discipline, conditions of service and equipment of the special police reserve as may be necessary to secure the efficiency of the reserve.

(3) Any officer of a special police reserve who, having been called out for service under section 24, fails without sufficient cause to report for service, or neglects or refuses to serve as such, or disobeys any order or direction which may be given him for the performance of his duties, shall be guilty of an offence and liable to a fine not exceeding two hundred and fifty rupees.

26. (1) Any officer of the special police reserve for any area who desires to resign from the reserve may give written notice of his intention to resign to the senior police officer of that area; and in any such case the resignation of such officer shall become effective on the expiry of a period of fourteen days from the date of the receipt of such notice or on such earlier date, if any, as may be determined by such senior police officer.

Resignation,
&c., from
reserve.

[§ 2, 15 of 1949.]

(2) The Inspector-General of Police may in his discretion by order remove any officer of a special police reserve from that reserve.

(3) It shall be the duty of any officer who resigns from a special police reserve or is removed therefrom forthwith to surrender at the nearest police station his letter of appointment as an officer of the reserve and such uniform and other equipment as may have been issued to him.

27. No police officer shall be at liberty to resign his office or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the Inspector-General of Police or Superintendent, or unless he shall have given to his superior officer two

Police officers
not to resign
without leave
or two
months'
notice.

months' notice in writing of his intention to do so ; nor shall any such police officer engage in any employment or office whatever other than his duties under this Ordinance, unless expressly permitted to do so in writing by the Inspector-General of Police.

Police force may be placed under the control of a public officer.

28. It shall be lawful for the Minister¹ to place a police force established in any district, rural district, town, or place, or in the neighbourhood of any railway and other works, under the control of any public officer having authority in such district, rural district, town, place, or neighbourhood, or in the province wherein such district, rural district, town, place, or neighbourhood is situated ; and such public officer shall in such case exercise the powers herein vested in police officers not under the grade of Assistant Superintendents of Police :

Provided that nothing herein contained shall be held to interfere with the general supervision of the Inspector-General of Police over the entire force and all officers thereof, subject to rules and regulations to be made by the Minister.¹

MAINTENANCE OF GENERAL POLICE

Expenses of police.

29. The salaries of the Inspector-General of Police and of the Superintendents, the cost of barracks, hospitals, medical attendance, and arms will be defrayed by the Government. All other expenses, including where there is a public water supply, the cost of supplying water to the police station, premises, quarters, and barracks, must be defrayed by the inhabitants of the towns for the protection of whose persons and property the police is established, except where a force is created under section 4. The expenses of police in rural districts shall be defrayed in equal shares by the Government and by proprietors of estates in each district as herein before provided :

Provided, however, that when any town is created a Municipality, the expenses of the police shall be provided for and recovered as directed by the Municipal Councils Ordinance, or any other enactment to be for that purpose hereinafter enacted.

30. The cost of the police payable under sections 6, 7, 14, 22, and 29 of this Ordinance shall be the salary drawn by every inspector, sub-inspector, sergeant, or constable, plus twenty per centum for headquarter reserve, leave, drill, sickness, &c., and eight per centum for pension, and the certificate of the Inspector-General of Police shall be conclusive evidence of the correctness of all charges made in pursuance of this section.

Fixed rates at which recovery of cost of police shall be made.

31. For the purposes of creating a fund from which the expenses of the police payable by each town not created a Municipality are to be defrayed, a tax shall be payable on the thirty-first day of March, on the thirtieth day of June, on the thirtieth day of September, and on the thirty-first day of December, in every year, for the quarter ending on the said days respectively, on all houses and buildings of every description, and on all lands and tenements whatsoever, within every such town, to an amount equal to such percentage on the bona fide annual value of such houses, buildings, lands, and tenements, as the Minister¹ shall by Order¹ from time to time appoint, except in cases where such amount shall fall below the sum of twenty-four cents per quarter, in all which excepted cases twenty-four cents per quarter shall be assessed and payable :

Tax to be levied for maintenance of police.

Provided that such tax shall not in the aggregate exceed the sum necessary for the maintenance of the force in such town, except as aforesaid, and which sum it shall be lawful for the Minister¹ from time to time to determine and appoint ;

Provided further that where the police force in any town is maintained for the joint purposes of such town and any adjoining district not included in the limits of such town such sum shall not exceed such fair proportion of the total amount necessary for the maintenance of the said force, as the Minister¹ shall from time to time determine and appoint ;

Provision for apportionment of expenses of police force between town and adjoining district.

Provided also that it shall be lawful and shall be deemed to have been at all times lawful to refrain in respect of any town from appointing any such percentage on the annual value ;

Provided further, that buildings appropriated to religious worship, and such as are placed in charge of military sentries, shall be exempted from the payment of such tax.

Meaning of
"bona fide
annual
value".

32. For the purposes of section 31 the "bona fide annual value" of all houses, buildings, lands, and tenements, as a basis of rating, shall be the gross annual value without any deduction for expenses, repairs, or other expenses for maintenance or upkeep.

Minimum
rates may be
reduced in
certain places
from one
rupee to
fifty cents.

33. It shall be lawful for the Minister¹ to reduce, in any place where a police force is now or may hereafter be stationed, the minimum rate payable to meet the expenses defrayable by the inhabitants of such place for maintenance of such police force, from the sum of one rupee yearly to fifty cents, if, owing to the poverty of the inhabitants or any other cause, such reduction shall appear to him reasonable. The rate, where such reduction is made, shall be assessed and made payable half-yearly, and not quarterly.

Power to
appoint three
or more
assessors to
assess the
town, acting
separately or
collectively.

34. The assessment to be made in any town for the purposes of creating a fund for the maintenance of a police force therein shall be made by three or more persons appointed by the Government Agent with power to them to act separately or collectively as the Government Agent shall direct; and each person so appointed shall be entitled to receive such remuneration as the Minister¹ may in his discretion award and shall have all the powers and authorities conferred by sections 36 and 37.

Time for
appointment
of assessors.

35. The assessors for the first year in which a police force is to be introduced in any town may be appointed before the introduction of such force, and every such assessor, when so appointed shall have and exercise all the powers and authorities conferred by sections 36 and 37 notwithstanding that this Ordinance shall not have been brought into operation in such town. For every year after the first, the assessors shall be appointed within such time before the commencement of each year as the Minister¹ shall deem reasonable.

36. Such assessors shall without unnecessary delay after their appointment proceed to inquire into, and according to the best of their information and judgment ascertain and assess as aforesaid the bona fide annual value of all houses, buildings, lands, and tenements within such town, and the tax hereby imposed on or payable for the same, and for that purpose it shall be lawful for the said assessors or any one of them, or for any person in company with or authorized in writing in that behalf by any such assessor, to enter any houses, buildings, lands, and tenements, and to cause to enter therein such persons and things as may be necessary and to proceed to do or cause to be done therein all such things as may be necessary to enable such assessors to ascertain the annual value of such houses, buildings, lands, or tenements ; and such assessors shall without delay report the assessment so made by them to the Government Agent of the district, who shall thereupon cause the same to be entered in a book which shall have an index or other convenient form of reference and shall be kept at his office for public inspection. It shall be lawful for the Government Agent to revise such assessment and to make such alterations therein as he shall consider expedient.

Mode of
assessment.

37. In order to enable the assessors to arrive at a fair valuation of any houses, buildings, or lands liable to the rate it shall be lawful for them to require the owner or occupier of such houses, buildings, or lands to furnish them with returns of the rent or annual value thereof. Whoever refuses or fails to furnish such returns within one week from the day on which he shall have been required to do so, and whoever makes a false or incorrect return, shall be liable to a fine not exceeding fifty rupees.

Power to
assessors to
call for
returns.

38. The tax hereby imposed shall be payable quarterly, and shall be recovered in manner hereinafter provided from the owner or owners, or from any or either of the owners of the houses, buildings, lands, or tenements liable to such tax, and if any person in the occupation of any such house, building, land, or tenement so liable, and not being the owner or a joint owner thereof, shall refuse, upon application being made in that behalf, to inform the said assessors or

Tax to be
payable
quarterly by
owner.

any one of them, or the Government Agent or any person authorized by him to make such application, as to the correct name and residence of the owner or owners of the said house, building, land, or tenement, every such person shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees.

Notice of assessment and demand of payment of tax to be served.

39. (1) The Government Agent shall, as soon as may be after the commencement of each year, cause to be served upon the owner or some joint owner of every house, building, land, or tenement liable to the payment of the tax imposed by this Ordinance, a notice of assessment, having subjoined thereto a demand of payment of the tax, as near as is material in the form A in the Schedule. Such notice shall be in the English, Sinhalese, or Tamil language, in the discretion of such Government Agent, and shall be served either personally upon the party to whom it is addressed, or by leaving it with some member of his household, or by affixing it to some conspicuous part of the house, building, land, or tenement liable to the payment of such tax.

(2) Such notice shall further intimate that written objections to the assessment will be received at a place stated in the notice within one month from the date of the service of the notice.

(3) The Government Agent shall cause all objections so received to be registered in a book to be kept for this purpose, and shall give notice in writing to each objector of the day, time, and place when and whereat his objections will be investigated.

(4) At the time and place so fixed the Government Agent shall investigate or cause to be investigated the objections, in presence of the objector (or an agent authorized by him in writing) if he shall appear, and if not, in his absence. The Government Agent may adjourn his investigation from time to time for reasonable cause.

(5) When any objection is disposed of by the Government Agent, he shall cause his decision to be notified to the objector, and the same shall be noted in the book of objections, and any necessary amendment shall be made in the assessment book.

(6) Every assessment, against which no objection is made, shall be final for the year.

40. (1) If any person is aggrieved by the decision of the Government Agent with regard to the assessment of any house, building, land, or tenement, he may within one month of receiving the notification of the Government Agent's decision under the last preceding section institute an action objecting to such decision in the Court of Requests having jurisdiction in the place where such house, building, land, or tenement is situate, if the amount of the rate or rates on the annual value of such house, building, land, or tenement does not exceed three hundred rupees, and in the District Court having such jurisdiction where such amount exceeds the sum of three hundred rupees.

Person dissatisfied with assessment may institute action in appropriate court.

(2) Upon the trial of any action under this section, the plaintiff shall not be allowed to adduce evidence of any ground of objection which is not stated in his written objection to the Government Agent, except with the leave of the court and on such terms as to costs as the court may determine.

(3) Every such court shall hear and determine such action according to the procedure prescribed for such court by the law for the time being in force regulating the hearing and determination of actions brought in such court, and the decision of such court shall in all cases be subject to appeal to the Supreme Court.

(4) Every such appeal shall be governed by the provisions of Chapter LVIII of the Civil Procedure Code, or by any enactment hereafter enacted, regulating the making of appeals to the Supreme Court from any judgment, decree, or order of Courts of Requests or District Courts.

(5) Neither the institution of such action nor any appeal therein shall stay the levying of the whole or any part of such rate or rates, and the excess, if any, collected shall be returned according to the decision of such Court of Requests or District Court if there be no appeal, or of the Supreme Court in case of appeal.

41. If any person shall not pay the tax due by him under this Ordinance as soon as the same is due, either

Proceedings if tax not duly paid.

into the office of the Government Agent or to some collector authorized by the Government Agent, by writing under his hand, to collect and receive the same upon demand made by such collector, it shall be lawful for the Government Agent, and he is hereby thereunto authorized and required, for non-payment of such tax to seize any property whatsoever belonging to the person by whom such tax is due, wheresoever the same may be found within the district of such Government Agent, and also to seize any movable property, to whomsoever the same may belong, which shall be found in or upon any house, building, land, or tenement for which such tax shall be due ; and if the amount due on account of such tax, together with the costs and charges payable by virtue of section 50, shall not be sooner paid or tendered to such Government Agent, to sell the property so seized by public auction at any time not less than ten nor more than thirty days from the time of such seizure. It shall be lawful for the Government Agent or any Assistant Government Agent to authorize any person specially in writing to seize and sell property as herein provided for.

Property may not be seized for arrears of tax beyond two quarters except in certain cases.

42. It shall not be lawful for the Government Agent to seize any movable property which may be found in or upon any house, building, land, or tenement in respect of which such tax shall be due, for any arrears of tax due beyond two quarters next preceding such seizure, unless such movable property shall belong to any person who was the owner or a joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due ; or unless such movable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

Order to be observed in seizing and selling property for recovery of tax.

43. Whenever it shall be necessary to seize and sell the property of any person making default in the payment of the said tax it shall be the duty of the officer authorized by this Ordinance to seize and sell the property to observe the order prescribed in sections 44, 45, 46 and 47 in carrying out such seizure and sale.

44. The movable property of the defaulter, wheresoever the same may be found, sufficient in the opinion of the officer seizing and selling the property to cover the amount of the tax due and the charges incurred in the recovery of the same may be seized and sold :

Movables of defaulter wherever found, and of any person in the premises for which tax is due may be seized and sold.

Provided that any movable property, to whomsoever the same may belong, which shall be found in or upon any house, building, land, or tenement for which such tax shall be due, may be seized and sold. But it shall not be lawful to seize any movable property which may be found in or upon any house, building, land, or tenement in respect of which such tax shall be due, for any arrears of tax due beyond two quarters next preceding such seizure, unless such movable property shall belong to any person who was the owner or a joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due ; or unless such movable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

Property of others may not be seized for arrears of tax beyond two quarters.

Exceptions.

45. Failing such movable property, may be seized and sold the rents and profits of the house, building, land, or tenement for which such tax shall be due, for a term sufficient, in the opinion of the officer seizing and selling the property, to cover the amount of the tax due and the charges incurred in the recovery of the same.

Sale of rents and profits.

46. Failing such rents and profits, may be seized and sold the materials of any house or building standing on the land for which such tax shall be due, and the timber growing thereon, sufficient, in the opinion of the officer seizing and selling the property, to cover such tax and the charges as aforesaid. And the purchaser of such materials or timber shall be entitled to pull down or cut and remove the same within the time allowed him for that purpose by the officer carrying out such seizure and sale.

Sale of building materials and timber.

Sale of premises on which tax is due or a portion thereof.

47. Failing such building materials and timber, may be seized and sold the house, building, land, or tenement for which such tax shall be due ; or, if a portion thereof, sufficient to cover such tax and the charges as aforesaid, can, in the opinion of the officer seizing and selling the property, be conveniently separated from the rest, such portion only.

Officers not liable for failure to observe order of seizure and sale.

48. No officer shall be liable in damages by reason of his not duly observing such order, unless the person claiming such damages shall establish to the satisfaction of the court that the defaulter, or some person on his behalf, pointed out to such officer, at the time he was making the seizure of such defaulter's property, free and unclaimed property sufficient to cover the amount of the tax or commutation, and charges as aforesaid, which was liable to seizure, in the first instance, according to the order hereby established, but which such officer nevertheless failed to seize.

Property seized may be removed or a person placed in possession.

49. Any movable property seized as aforesaid may be removed by the Government Agent for safe custody, pending the sale thereof, to such place as he may think fit ; and in case of the seizure of immovable property, or of any property which cannot be conveniently removed, such Government Agent may place and keep a person in possession thereof pending such sale.

Costs of seizure, &c.

50. It shall be lawful for the Government Agent to demand, take, and receive from the person by whom the tax is due, or from the owner or any joint owner of any property which may be lawfully seized for non-payment of such tax, the several sums of money mentioned in the following table ; that is to say :

Table of Charges incurred in the Recovery of Tax

- (a) for cost of proceeding to the house or land of the party in default, in order to seize property, a charge not exceeding four cents for every fifty cents of tax due ;

- (b) for removal of the goods seized, in case such removal takes place, a charge not exceeding four cents for every fifty cents of tax due ;
- (c) for keeping the same in safe custody in case of such detention, a charge not exceeding four cents per day ;
- (d) for keeping a person in possession in case of a seizure of immovable property, or if the goods seized are not removed, a charge not exceeding fifty cents per day ;
- (e) for the expenses of sale, where any takes place, a charge not exceeding twenty-four cents on every ten rupees of the net produce of the sale.

51. It shall be lawful for the Government Agent to break open or cause to be broken open, in the daytime, any house or building, for the purpose of seizing property in pursuance of this Ordinance.

Houses may be broken open, &c.

52. It shall be lawful for the occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property shall have been seized as aforesaid, or who, to avoid such seizure, or after seizure to avoid a sale of such property, shall have paid the amount of tax due in respect of such house, building, land, or tenement, and the costs demandable by virtue of this Ordinance, to deduct the amount paid by him from the first payment of rent due by him on account of the said house, building, land, or tenement to the owner or owners thereof, and the receipt of the Government Agent for the amount so paid shall be deemed an acquittance in full for the like amount of rent :

Tenant paying tax to avoid seizure of his property may deduct it from his rent.

Provided always that nothing herein contained shall authorize any such deduction from his rent by any occupant who, by the terms of his lease or other agreement, was himself bound and liable to pay such tax.

53. In the event of a sale of property seized, the Government Agent shall, after deducting the amount due on account of such tax, and also the costs and charges payable by virtue of section 50 (which said costs and charges the Government Agent is hereby authorized to retain), restore the overplus arising from such sale, if any there be, to the owner or to some

After payment of the tax and charges, overplus accruing from sale to be restored to the owner of the property.

joint owner of the property sold ; and the Government Agent shall, upon application in that behalf, grant a receipt for the amount of the tax recovered, and of such costs and charges, to the owner or joint owner of such property.

Certificate of sale.

54. If land or other immovable property be sold for non-payment of tax, a certificate substantially in form B in the Schedule, signed by the Government Agent, shall be sufficient to vest the property in the purchaser, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immovable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

POLICE RULES

The Inspector-General of Police may make rules for police.

55. The Inspector-General of Police may from time to time, subject always to the approbation of the said Minister,¹ frame orders and regulations for the observance of the police officers who shall be placed under his control as aforesaid, and also for the general government of such persons, as to their places of residence, classification, rank, and particular services, as well as their distribution and inspection, and all such orders and regulations relative to the said police force as he may deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of its duties ; and every police officer who shall neglect or violate any such orders or regulations, or any duty imposed upon him by this or any other enactment, shall be guilty of an offence, and be liable to any fine not exceeding fifty rupees (which fine or any part thereof may be deducted from any salary then or at any time thereafter due to such offender), or to imprisonment with or without hard labour for any period not exceeding one month.

DUTIES AND LIABILITIES OF POLICE OFFICERS

Duties of police officers.

56. Every police officer shall for all purposes in this Ordinance contained be considered to be always on duty, and shall have the powers of a police officer in every part of Ceylon.

It shall be his duty—

- (a) to use his best endeavours and ability to prevent all crimes, offences, and public nuisances ;
- (b) to preserve the peace ;
- (c) to apprehend disorderly and suspicious characters ;
- (d) to detect and bring offenders to justice ;
- (e) to collect and communicate intelligence affecting the public peace ; and
- (f) promptly to obey and execute all orders and warrants lawfully issued and directed to him by any competent authority.

57. Every police officer to whom any description of warrant shall have been addressed for execution is hereby authorized and empowered to execute any such warrant in any and every part of Ceylon as well as in any town, rural district, or place other than large towns or rural districts, in which a police force shall under the provisions of this Ordinance have been established, anything in this Ordinance to the contrary notwithstanding :

Police officers to have authority to execute warrants in all parts of Ceylon.

Provided, however, that nothing in this section shall justify any police officer executing any warrant or process illegally issued or entrusted to him for service, or shall relieve him from any penalty or liability incurred in respect of the execution of any warrant improperly or illegally issued, or in respect of any neglect of duty or abuse of the powers hereby conferred.

58. Every police officer empowered to act as such within any town or place adjacent to any port shall within such port have all such powers, protections, and privileges, and be liable to all such duties and responsibilities as by law he has and is liable to within such town or place.

Police officers to act in ports of Ceylon.

59. It shall be lawful for the Minister, ¹ from time to time to make, and when made to revoke, alter, or amend rules—

Minister may make rules.

- (a) for regulating the number, distribution, and particular service of the several officers who

shall be on duty in any port, and the number and description of boats to be provided for their service ;

- (b) for determining at what times and in what rotation the police boats shall be employed in rowing guard in the said port ;
- (c) for promoting the general efficiency of the police within the said port, and for preventing neglect or abuse in the discharge of their duties.

Police officers to obey lawful orders of Master Attendant and customs officer.

60. Every police officer, when acting as such within any port, shall obey and execute any lawful order which may be issued to him by the Master Attendant or the principal officer of customs of such port in all matters relating thereto, and to offences and offenders therein.

Penalties.

61. Any police officer committing a breach of any rule made under section 59, or refusing to obey or execute any lawful order issued to him under section 60, shall be guilty of an offence, and shall be liable to a fine not exceeding fifty rupees, or to simple imprisonment for a term not exceeding three months.

Meaning of "port".

62. In sections 58, 59 and 60, unless the context otherwise requires—

"port" includes all harbours, roadsteads, and places of anchorage in Ceylon ; and where the limits of any port have been or may hereafter be defined by the Minister¹ under section 2 of the Masters Attendant Ordinance, those limits shall be taken to apply to such port for the purpose of the said sections.

Certain duties of police officers. Obstructions and nuisances on roads.

63. Any person who in any street or road, thoroughfare, or passage, within the limits of any town, commits any of the following offences, shall be liable to a fine not exceeding fifty rupees, or to imprisonment not exceeding three months, and it shall be lawful for any police officer to take into custody without a warrant

any person who within his view commits any such offence :—

- | | |
|--|--|
| (a) any person who shall slaughter any cattle, or clean any carcase in the streets ; | Slaughtering cattle, furious riding, &c. |
| (b) any person riding any cattle carelessly, recklessly, and furiously, or training or breaking any horse or other cattle on or near any public road, to the danger of the passers by ; | |
| (c) any person who wantonly or cruelly beats, abuses, or tortures any animal ; | Cruelty to animals. |
| (d) any person who shall keep any cattle or conveyance of any kind in any road or street longer than is required for loading or unloading goods, or for taking up or setting down passengers ; | Obstructing passengers. |
| (e) any person who shall leave any cattle or conveyance in such a manner as to cause inconvenience or danger to the public ; | |
| (f) any person exposing any article or thing on the roads or streets, and which may obstruct passengers or frighten horses ; | Exposing goods on roads. |
| (g) any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials ; | Throwing dirt into street. |
| (h) any person who constructs any cow sheds, stable, or the like, within the bounds of any thoroughfare ; | |
| (i) any person who causes any offensive matter to run from any house, factory, dung heap, or the like, into the street ; | |
| (j) any person who wilfully and indecently exposes his person or any offensive deformity or disease ; | Indecent exposure of person. |
| (k) any person who commits nuisance— | |
| (i) by easing himself in or by the side of or near any public street or thoroughfare ;
or | |
| (ii) by bathing or washing in any place not set apart for that purpose ; | |
| (l) any person who neglects to fence in or duly to protect any well, tank, or other dangerous place or structure ; | Neglect to protect dangerous places. |

Driving cart,
&c., without
lanterns.

(m) any person who drives or leads any conveyance or cart after dark and before daylight without lighted lanterns.

Power of
police to
seize straying
cattle, &c.

64. (1) It shall be lawful for any police officer to seize any ox, horse, sheep, goat, or other animal which he may find tied, tethered, straying, improperly driven, or tended upon any thoroughfare, or upon any line of railway, or upon any land appertaining thereto, or to cause the same to be seized, unless such animal shall belong to any cart to which it is tied or tethered whilst the same is being loaded or unloaded.

(2) Every such animal seized as aforesaid shall be delivered into the custody of an officer of police in charge of the nearest police station, and every such officer receiving such animal shall forthwith report such seizure to the proper Magistrate's Court, and such court shall, if at the time of such report no claim be made to such animal, direct the officer to take the necessary steps for the safe custody and maintenance of such animal, and to publish such seizure by affixing a notice thereof in some conspicuous place at the police station and at the Magistrate's Court to which such seizure was reported.

(3) No such animal seized as aforesaid shall be delivered to the owner thereof except upon payment into such court of the sum of one rupee, any part of which the Magistrate may direct to be paid to the Police Reward Fund, and of a further sum not exceeding thirty cents for each day or part thereof during which the animal shall have been in the custody of and maintained by the officer to whom it was entrusted, for the use of such officer ; and if no person shall claim such animal or pay such dues as aforesaid within seven days after the order of the Magistrate's Court for safe custody and maintenance of such animal as aforesaid, the police officer to whom the animal was entrusted shall sell it by public auction, and after payment to himself of a sum calculated at the rate aforesaid for the custody and maintenance of the animal, shall pay the balance, if any, to the Magistrate's Court, and the Magistrate may make such order with regard to such sum as he may think fit.

[§ 2, 50 of 1954.]

[§ 2, 36 of 1945.]

65. Every person taken into custody by any police officer without warrant (except persons detained for the mere purpose of ascertaining their name and residence) shall forthwith be delivered into the custody of the officer in charge of a station in order that such person may be secured until he can be brought before a Magistrate to be dealt with according to law, or may give bail for his appearance before a Magistrate, if the officer in charge shall deem it prudent to take bail as hereinafter mentioned :

Persons arrested without warrant to be taken to police station until brought before Magistrate or bailed.

Provided always that where bail is not taken, the prisoner shall be brought before a Magistrate within twenty-four hours, unless circumstances render delay unavoidable.

66. It shall be lawful for any officer in charge of a station to bind by recognizance any person to appear as prosecutor or as a witness before the Magistrate by whom any grave charge is being or is about to be investigated ; and if any such prosecutor or witness shall refuse to execute such recognizance, it shall be competent to such officer to forward the person in custody to the proper court.

Officer in charge of police station may take recognizance for appearance of prosecutor or witness.

67. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before any Magistrate at such time and place as may be required, and the time and place of appearance, and the sum thereby acknowledged, not exceeding one thousand rupees, shall be specified in the said recognizance, or in the condition thereof ; and the officer taking the recognizance shall return the same forthwith to the Magistrate before whom the party is bound to appear.

Condition of recognizance.

68. It shall be lawful for any police officer without a warrant to enter and inspect all drinking shops, gaming houses, and other resorts of loose and disorderly characters, all premises of persons suspected of receiving stolen property, any locality, vessel, boat, or conveyance in any part whereof he shall have just cause to believe that crime has been or is about to be committed, or which he reasonably suspects to contain

Police officer may enter drinking shops, &c., without a warrant.

stolen property, and then and there to take all necessary measures for the effectual prevention and detection of crime, and to take charge of all property reasonably suspected to have been stolen, and of all articles or things which may serve as evidence of the crime supposed to have been committed, and to take charge of all unclaimed property.

Penalty on
persons
found drunk
and
incapable.

69. (1) Every person found drunk and incapable of taking care of himself in any thoroughfare or public place, whether a building or not, or on any licensed premises or tavern, and any person who shall be guilty of violent, quarrelsome, noisy, disorderly, or riotous conduct in or about such premises or tavern, shall be liable to a fine not exceeding five rupees, and on second conviction within a period of twelve months shall be liable to a fine not exceeding ten rupees, and on a third or subsequent conviction within such period of twelve months be liable to a fine not exceeding twenty rupees.

(2) Every person who in any thoroughfare or other public place, whether a building or not, is guilty while drunk of riotous or disorderly behaviour, or who is drunk while in charge on any thoroughfare or other public place of any vehicle, horse, or cattle, or who is drunk when in possession of any loaded firearms, may be apprehended without a warrant, and kept in custody until he gets sober, and shall be liable, in addition, to a fine not exceeding twenty rupees, or to simple or rigorous imprisonment for any term not exceeding one month.

(3) Every police officer on the demand of the keeper of a tavern or other licensed premises, or of his agent or servant, shall expel or assist in expelling from such premises any person who is a habitual drunkard, or drunken, violent, quarrelsome, or disorderly, and any person whose presence on the premises would subject the keeper thereof to a penalty, and may use such force as may be required for that purpose.

(4) Where a fine is imposed under this section on the prosecution of a police officer, the court may direct

that a portion not exceeding one-half of the fine actually recovered shall be paid into the Police Reward Fund.

70. No police officer shall receive any complaint of any petty offence, or take into his custody any person brought to him accused of such petty offences as trespass, assault, quarrelling, or the like ; and it shall be lawful for any police officer to refuse to receive and act upon any charge of an offence of a grave character, if he shall, on inquiry made of the complainant alone, see good grounds for doubting its truth :

Police officer not to receive complaints of petty offences.

Provided always that if the charge be not of such a nature as under ordinary circumstances would justify the police officer in refusing to receive it, the particular reasons for refusing it are to be recorded by such officer at the time.

71. It shall be lawful for any police officer to lay any information before any Magistrate, and to apply for summons, warrant, search warrant, or such other legal process as may by law issue, and may be expedient under the circumstances, against any person committing an offence against any law or enactment, or against any regulation for the protection of the revenue, or against any person committing or failing to remove any public nuisance or unwarrantable obstructions, keeping a disorderly house, harbouring thieves, disturbing the peace, obstructing the due course of justice, and the like ; and to prosecute such offenders up to final judgment.

Police officers may lay information, &c.

72. A court, before which an offender is convicted of an offence under any of the enactments specified in the Schedule to the Informers Reward Ordinance or under any of the enactments to which the provisions of section 2 of the Informers Reward Ordinance have been extended, may, in respect of any fine imposed for such offence, direct that a sum not exceeding one-half of such fine or one-half of such amount as may be actually recovered from such offender, be paid to the Police Reward Fund established under this Ordinance :

Court to direct payment of share of fine to Police Reward Fund. [§ 4, 50 of 1954.]

Provided, however, that where the court has directed or intends to direct that any other payments be paid

out of such fine, the total amount of the payments that the court shall direct to be paid out of such fine shall not exceed the aforesaid sum.

Police
Reward
Fund.
[§ 4, 50 of 1954.]

73. (1) A Fund to be called the Police Reward Fund (hereinafter referred to in this section as "the Fund"), is hereby established.

(2) There shall be paid into the Fund—

- (a) all sums directed to be paid thereto by a court or a judge thereof under this Ordinance or under any other written law or by a judge in his discretion ;
- (b) donations by private individuals to the Fund ; and
- (c) prescribed payments.

(3) There shall be paid out of the Fund—

- (a) all payments given as rewards to such police officers and in accordance with such regulations, as may be prescribed ;
- (b) the expenses incurred in the administration of the Fund ; and
- (c) prescribed payments.

(4) The Inspector-General of Police shall be responsible for the administration of the Fund and the accounts of the Fund shall be audited annually by the Auditor-General.

(5) The Minister may make regulations—

- (a) regulating the manner in which the Fund is to be administered ;
- (b) in respect of matters required by this Ordinance to be prescribed ; and
- (c) in respect of all matters incidental to or connected with the establishment and administration of the Fund.

(6) No regulation made under the preceding provisions of this section shall have effect until that regulation has been approved by the Senate and the House of Representatives.

Every regulation so approved shall be as valid and effectual as if it were herein enacted.

(7) The general fund for the reward of police officers which is in existence on the 13th day of October, 1954, shall be the Fund established for the purposes of this section.

[§ 5, 50 of 1954.]

74. If, in the execution of process, it shall be found necessary for the officer of the police employed to serve such process to go any distance beyond five miles, the person at whose instance the process is issued shall be bound to lodge with the Magistrate at the time he applies for the process a sum sufficient to cover the officer's travelling allowances, at such rates as the Minister¹ shall from time to time appoint.

Execution of
process
beyond five
miles.

75. In all cases of fire or other calamity occurring within such town and limits, police officers shall repair to the place where the same has occurred for the protection of such persons and property as may be endangered thereby, and shall be authorized to call upon all persons to aid and assist them in that behalf ; and every person so called upon who shall refuse or neglect to give such aid and assistance without good and sufficient excuse shall be guilty of an offence, and liable to any fine not exceeding ten rupees.

In case of
fire, &c.,
police officers
to repair to
the spot.

76. Every householder within such town and limits shall furnish the officer of police of his division, when required so to do by such officer under the order received to that effect from any Magistrate having jurisdiction within such town and limits, or from the Inspector-General of Police, with a list of all the inmates of his house, distinguishing the members of his family from the servants or others resident therein ; and he shall also, if it shall be so directed in the order of the Inspector-General of Police or Magistrate report any increase or diminution, or change in the same ; and he shall not, having received such notice under such order, harbour a stranger without giving such notice thereof to the principal officer of police of his division ; and every person failing in any duty imposed upon him by this clause shall be guilty of an offence, and be liable to any fine not exceeding fifty rupees.

Householder
to give lists
of inmates
when
required.

Power to give directions prohibiting or regulating processions.
[§ 2, 22 of 1947.]

77. (1) No procession shall be taken out or held in any public place in any urban area, unless notice of such procession has, at least six hours before the time of the commencement of such procession, been given to the officer in charge of the police station nearest to the place at which the procession is to commence :

Provided that nothing in the preceding provisions of this subsection shall apply in the case of any procession of any such description as may be exempted from those provisions by Order made by the Minister¹ and published in the Gazette.

In this subsection, "urban area" means any area within the administrative limits of any Municipal Council, Urban Council or Town Council.

(2) Where any procession is taken out or held in contravention of the provisions of subsection (1), every person organizing that procession or doing any act in furtherance of the organization or assembling of that procession shall be guilty of an offence.

(3) Notwithstanding anything in any other law, an officer of police of a rank not below the grade of Assistant Superintendent, if he considers it expedient so to do in the interests of the preservation of public order, may give directions (whether orally or in writing) prohibiting the taking out of any procession, or imposing upon the person or persons organizing or taking part in the procession such conditions as appear to him to be necessary, including conditions prohibiting or restricting the display of flags, banners or emblems.

(4) Any person who organizes or takes part in any procession which is prohibited by directions given under subsection (3), or otherwise acts in contravention of any such directions, shall be guilty of an offence.

(5) Every person who is guilty of an offence under this section shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

78. (1) Officers of police not below the grade of Sub-Inspector may, as occasion requires, direct the conduct of all assemblies and processions in any public place, prescribe the routes by which and the times at which such processions may pass, and direct all crowds of twelve or more persons to disperse when they have reason to apprehend any breach of the peace. All officers of police shall keep order in all public places, and prevent obstructions on the occasions of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, or thoroughfares, or landing places, may be thronged, or may be liable to be obstructed. They may also regulate the use of music in the streets, when the same shall be allowed.

Regulation of public processions, &c., and of carriages and persons at places of public resort.

[§ 3, 22 of 1947.]

(2) Every person opposing or not obeying the orders so given as aforesaid, or violating the conditions of any licence granted by such Superintendent or other officers for the use of such music, or for the assembling of any such body of persons, shall be liable to a fine not exceeding two hundred rupees :

Licences for use of music in streets.

Provided always that nothing in this section contained shall be deemed to interfere with the general control of the Magistrate over such matters.

79. (1) Notwithstanding anything in any other law, any person who, while present at any public meeting or on the occasion of any procession, has with him any offensive or dangerous weapon referred to in section 315 of the Penal Code, otherwise than in pursuance of lawful authority, shall be guilty of an offence under this section.

Possession of dangerous weapons at public meetings and processions, and use of words or behaviour tending to cause breach of the peace.

[§ 4, 22 of 1947.]

For the purposes of this subsection, a person shall not be deemed to be acting in pursuance of lawful authority, unless he is acting in his capacity as a police officer or as a member of Her Majesty's forces or otherwise as a servant of Her Majesty.

(2) Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour which is intended to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence under this section.

(3) Any person who is guilty of an offence under this section 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 term not exceeding six months, or to both such fine and imprisonment.

(4) Every offence under this section shall be a cognizable offence within the meaning and for the purposes of the Criminal Procedure Code.

Regulation of use in or near public places of instruments producing or reproducing sound.

[§ 4, 22 of 1947.]

80. (1) No person shall, unless he has been authorized so to do by a permit issued by any officer of police of a rank not below the grade of Assistant Superintendent, or otherwise than in accordance with such conditions as may be attached to such permit, use or operate or cause or permit any other person to use or operate any gramophone, loudspeaker, megaphone, amplifier or other instrument automatically, mechanically or electrically producing, reproducing or amplifying sound—

(a) in any public place, or

(b) in any other place in such manner or circumstances that the sound so produced, reproduced or amplified is audible in any public place :

Provided, however, that no permit under the preceding provisions of this subsection shall be required for the use or operation within any building, not being a public place, of any gramophone or wireless receiving set reproducing any music, speech or other sound which has either been recorded or is broadcast from a wireless transmitting station, notwithstanding that the sound reproduced thereby may be audible in a public place.

(2) Any person who acts in contravention of the provisions of subsection (1) shall be guilty of an offence and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two hundred rupees ; and in the case of a continuing offence to a fine not exceeding fifty rupees in respect of each day on which the offence continues.

(3) Where any instrument referred to in subsection (1) is being used or operated in a public place or so as to be audible in a public place, and a police officer of

a rank not below the grade of Sub-Inspector is of opinion that such sound is excessive or is otherwise likely to cause a nuisance to the public, such police officer may, by order (whether oral or written) addressed to the person for the time being in charge or control of the instrument, require the abatement of such sound ; and any such order may be made notwithstanding that a permit may have been granted under subsection (1) authorizing the use or operation of the instrument or that the instrument is used or operated in the circumstances mentioned in the proviso to that subsection.

[§ 2, 32 of 1956.]

(4) In any case where any order made under subsection (3) is not forthwith complied with, or where any instrument, the use or operation of which has been authorized by a permit issued under subsection (1), is used or operated in such manner or such circumstances as to contravene any of the conditions specified in the permit, any police officer of a rank not below the grade of Sub-Inspector may, by order (whether oral or written) addressed to the person for the time being in charge or control of the instrument, require him to discontinue the use or operation thereof ; and if such order is not complied with forthwith, it shall be lawful for that police officer and for any other police officer acting under his authority to seize and detain the instrument.

[§ 2, 32 of 1956.]

(5) Nothing in the preceding provisions of this section shall apply to, or in relation to, the use or operation of any instrument by any police officer, or by any member of Her Majesty's forces acting in the course of his duty as such.

(6) The preceding provisions of this section shall be in addition to, and not in substitution for, the provisions of any other written law relating to the use or operation of the instruments referred to therein.

81. For the purposes of sections 77 to 80—

“public meeting” means any meeting in a public place and any meeting (irrespective of the place at which it is held) which the public or any section thereof are permitted to attend, whether on payment or otherwise ;

Meaning of “public meeting” and “public place” in sections 77 to 80.

[§ 4, 22 of 1947.]

“public place” means any highway, public park or garden, any sea beach, and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not; and includes any open space to which, for the time being, the public or any section thereof have or are permitted to have access, whether on payment or otherwise.

Penalties for
neglect of
duty, &c.

82. Every police officer—

- (a) who shall be guilty of any violation of duty or wilful breach or neglect of any regulations and lawful orders of other competent authority, and not punishable under section 55; or
- (b) who shall—
 - (i) cease to perform the duties of his office without leave, or without having given two months' notice, as provided by this enactment, or
 - (ii) engage without authority in any employment other than his police duty; or
- (c) who shall be guilty of prevarication in any judicial trial; or
- (d) who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual; or
- (e) who shall knowingly and wilfully, and with evil intent, exceed his powers; or
- (f) who shall be guilty of any wilful culpable neglect of duty in not bringing any person who shall be in his custody without a warrant before a magisterial officer as herein before provided; or
- (g) who shall allow any person in his custody to escape; or
- (h) who shall offer any unwarrantable personal violence to any person in his custody,

shall be liable to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or both.

83. Any police officer who shall be guilty of cowardice shall be liable to a fine not exceeding twelve months' pay, or to imprisonment, with or without hard labour, not exceeding twelve months, or both.

Penalty for cowardice.

84. (1) Every person not being, or having ceased to be, a duly enrolled police officer, who shall unlawfully assume any function or power belonging to the police, and who shall not forthwith deliver up all the clothing, accoutrements, and appointments, and other necessities which may have been supplied to him in the execution of his duty ; or if any person shall wilfully injure any such clothing or other article so as to render the same of less value ; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the police force, without being able to account satisfactorily for his possession thereof ; or who shall put on the dress of any police officer, or any dress designed to represent it or to be taken for it ; or who shall otherwise personate the character or act the part of any police officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding three months, or both.

Unlawful assumption of police function, personation of police, &c.

(2) For the purposes of this section an article shall be deemed to be in the possession of a person if he knowingly has it in the actual possession of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit or for the use or benefit of another.

85. (1) Every person who—

- (a) buys, exchanges, takes in pawn, detains, or receives from a police officer or any person acting on his behalf, on any pretence whatever ; or
- (b) solicits or entices any police officer to sell, exchange, pawn, or give away ; or

Penalty on traffic in Government property.

(c) assists or acts for a police officer in selling, exchanging, pawning, or making away with, any Government property, shall, unless he proves either—

(i) that he acted in ignorance of the same being Government property or of the person with whom he dealt being or acting for a police officer, or

(ii) that the same was sold by order of the Government or some competent authority,

be liable to a fine not exceeding one hundred rupees, or to imprisonment not exceeding three months.

(2) A person found committing an offence against this section may be apprehended without a warrant, and it shall be lawful for any police officer, authorized in writing in that behalf by a Superintendent or Assistant Superintendent of Police, to search without a warrant any place where he has reasonable cause to suspect there is any property with respect to which such an offence has been committed.

Nuisances
how to be
removed and
abated.

86. It shall be lawful for any officer of police not below the grade of Sub-Inspector to give order either verbally or by notice in writing to any person causing any public nuisance mentioned in this Ordinance to abate and remove the same ; and if any person to whom such order or notice shall have been given shall refuse or neglect to comply with ~~the~~ same in a reasonable time, or if there be any doubt as to who is the proper person to whom such order or notice should be given, it shall be lawful for such officer to cause any such public nuisance to be forthwith abated or removed ; and for that purpose it shall be lawful for him, where necessary, to enter into or upon any house, garden, enclosure, land, or other premises, and to cause to enter therein or thereupon such persons, instruments, and things as may be necessary, and to proceed to do or cause to be done therein or thereupon all such things as may be necessary for such abatement or removal ; and upon the officer certifying to the proper Magistrate the costs which have been bona fide incurred in effecting such abatement or removal, such Magistrate shall

summon the party or parties on account of whose non-compliance with any such order or notice such costs were incurred to appear before him on a certain day, then and there to make payment of such costs, where it shall appear after due investigation that such costs were properly incurred ; and if such party or parties shall refuse or fail to make such payment, the Magistrate shall proceed to recover such payment in such and the same manner as he would proceed to recover any fine or penalty incurred under any sentence of the court in which he presides :

Provided always that nothing in this Ordinance contained shall be construed to limit or interfere with in any way the common law right of any individual to abate any nuisance.

87. When any action, prosecution, or proceeding shall be brought against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of warrant issued by a magisterial officer ; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by such magisterial officer ; and the defendant shall thereupon be entitled to decree in his favour, notwithstanding any defect of jurisdiction in such magisterial officer, and no proof of the signature of such official shall be necessary, unless the court shall see reason to doubt its being genuine :

Plea that act was done under a warrant.

Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

88. All actions and prosecutions against any person which may be lawfully brought for anything done or intended to be done under the provisions of this Ordinance, or under the general police powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise ; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the principal officer of the district in which the act was committed, one month at least before the commencement of the action ; and no plaintiff shall recover

Limitation of action.

in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant.

GENERAL PROVISIONS

Wells to be surrounded with wall two feet high.

89. All persons who shall make or cause to be made or have in rent or possess any well within any town and limits, and shall not surround the same with a wall two feet at least in height, and keep such wall of that height and in good and sufficient repair, shall be guilty of an offence, and be liable to any fine not exceeding twenty rupees.

No cart to remain in the street, &c., except for loading and unloading.

90. No cart of any description whatsoever shall be left or permitted to remain in any street, way, or avenue within any town and limits upon any pretence whatever without the permission of the principal officer of police, except for such time as shall be necessary for the purposes only of loading or unloading, or except in such places as shall at any time be appointed and notified by such officer ; and any owner or person in charge of any cart so left or permitted to remain as aforesaid shall be guilty of an offence, and be liable to any fine not exceeding twenty rupees.

No carriage to obstruct any street.

91. In no case shall any description of carriage be permitted to obstruct the passage of any street, way, or avenue, nor any two or more carriages of any description to stand abreast in any street, way, or avenue within such town and limits ; and the owner or person driving, loading or in charge of any such carriage not removing the same immediately when ordered or requested so to do by any officer of police, or by any private person, shall be guilty of an offence, and be liable to any fine not exceeding twenty rupees.

Penalty on furious or careless riding or driving.

92. All persons who shall drive or conduct any carriage or other vehicle in a careless, reckless, or violent manner, or who shall ride upon any carriage or other vehicle drawn by horses, bullocks, or other cattle at a pace other than a walk unless the animal driven be

so harnessed and bitted as to be perfectly under the control of the driver, or some person on foot able to guide and control the same, or who shall furiously ride or drive, or carelessly lead or let loose, any horse, bullock, or other animal in any street, to the danger and terror of passengers, or shall employ any incompetent person to drive or conduct any carriage or other vehicle, or to lead any horse, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding three months.

93. No elephant shall be permitted to pass along any street, road, or thoroughfare within any town and limits except between the hours of two and eight in the morning ; and every person riding, driving, or conducting any elephant, or causing any elephant to be ridden, driven, or conducted along any such street, road or thoroughfare, except between such hours as aforesaid, shall be guilty of an offence, and shall be liable to a fine not exceeding fifty rupees :

Elephants not to pass along the streets except at certain times.

Provided always that nothing in this section contained shall apply to the employment of elephants in any town or limits under a written licence granted by the Government Agent of the district.

94. It shall be lawful for any person within whose view any of the offences specified in sections 90, 91, 92 and 93 shall have been committed, to seize and take the party having so offended to the nearest officer of police to be dealt with according to law, if such party shall refuse to give to such person on demand full information respecting his name, occupation, and residence ; and where such offender cannot be so seized or traced, but the carriage, cart, or animal in respect of which the offence in question was committed can be identified, it shall be lawful for any competent court to issue a warrant for the seizure of such carriage, cart, or animal, together with a summons to the owner thereof to appear before such court on a certain day to be mentioned in such summons ; and if such owner shall fail to attend in pursuance thereof without good and sufficient excuse, or if attending and not being himself the offender he shall refuse to give all information in his power respecting the party by whom such

Persons offending against sections 90, 91, 92 and 93 may be seized.

offence was committed, such owner shall be guilty of an offence, and be liable to the same punishment to which the party so having offended as aforesaid would have been liable on conviction thereof.

Penalty on persons forming part of procession or assemblies carrying sword or other offensive weapons.

95. If any person forming part of any procession or of any assembly of more than twelve persons, except under military regulation or some regulation of police, which shall take place or be collected for some particular purpose anywhere within any town and limits, shall have about him or have placed anywhere near him so as to be capable of being used by him while forming part of such procession or of such assembly any gun, pistol, sword, creese, club, or other offensive weapon, every such person shall be guilty of an offence, and be liable to any fine not exceeding two hundred rupees, or to imprisonment at hard labour for any period not exceeding twelve months; and every person who shall have formed part of any such procession or assembly, and who it shall be proved to the satisfaction of the court before whom he shall be brought was aware that any such offensive weapon was carried or placed near any person forming part of such procession or assembly as aforesaid, and did not give information thereof to some officer of police, shall be guilty of an offence, and be liable to any fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Beating of tom-tom, &c., forbidden.

[§ 2, 21 of 1939.]

96. All persons who shall at any time within any town and limits, either within or without any house or building, beat drums, or tom-toms, or have or use any other music calculated to frighten horses, or who shall make any noise in the night so as to disturb the repose of the inhabitants, or who shall at any time discharge firearms, crackers, or fireworks, or release any fire balloon or other combustible or explosive contrivance or article which is likely to cause injury to person or property, except under military regulation, or unless they shall have obtained a licence from the Magistrate of the district, or from the Inspector-General of Police or Superintendent, who are hereby authorized to grant the same when it shall to them appear expedient, or

who shall play at any games in or near any street, road, or thoroughfare, or fly any kite, or throw any stone or other missile, or wilfully or negligently make any noise, or do any act or thing in a manner calculated to terrify or injure any passenger, horse, or cattle, or to injure any property, shall be guilty of an offence, and be liable to any fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding three months.

97. (1) Any person (hereinafter referred to as the "applicant") to whom a licence under the provisions of section 78 or section 96 of this Ordinance—

Appeal
against
refusal of,
conditions in,
or withdrawal
of, licence.

- (a) has been refused ; or
- (b) has been granted subject to conditions to all or any of which he objects ; or
- (c) has been granted, which has subsequently been withdrawn by the authority granting the same,

may appeal to the Magistrate of the division within five days of such refusal, grant, or withdrawal.

(2) Such Magistrate, after hearing the applicant and such other persons as to him may seem fit, may make an order—

- (a) confirming the refusal or withdrawal of the licence to, or from, the applicant ; or
- (b) directing the issue of a licence, and confirming, modifying, striking out, or adding to, the conditions contained in any licence which has been issued to the applicant, or inserting conditions in any licence which is ordered to be issued in the place of any licence withdrawn as herein before mentioned.

(3) If the application for a licence is made in the first instance to the Magistrate of the district under section 96, and such application is refused or is granted subject to conditions, to all or any of which the applicant objects, or is granted and then the licence is withdrawn as herein before mentioned, such refusal, grant, or withdrawal shall be deemed to be an order of the Magistrate, and the applicant may appeal against the same in the manner hereinafter in this section provided.

(4) (a) Any applicant who is dissatisfied with the order of a Magistrate under this section may appeal to a Judge of the Supreme Court, who may make such order as to him seems fit and whose decision shall be final.

(b) Every such appeal shall be by petition which shall be liable to a stamp duty of five rupees, and shall be preferred within ten days of the order being made by a Magistrate, and shall be heard as soon as conveniently may be after it is so preferred and be determined by such Judge.

(c) Notice in writing of an appeal under this subsection shall be given to the Attorney-General, who may attend or be represented at the hearing of the appeal.

False reports to alarm people and create a panic.

98. Any person who shall spread false reports with the view to alarm the inhabitants of any place within Ceylon and create a panic shall be guilty of an offence, and be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding twelve months; and if he shall be convicted a second time, or shall persist in the offence after warning to desist, he shall be liable to corporal punishment not exceeding twenty lashes.

Persons to keep the space opposite their houses clean.

99. No filth, or dirt, or dead or disabled animal shall be cast or allowed to remain in any street, road, canal, or other thoroughfare within any such town and limits, and every inhabitant within any such town and limits shall keep the space and street or road, and all surface drains, ditches, and gutters before his house clean, and the owners or occupiers of all private avenues, passages, yards, and ways, and all slaughter-houses shall keep the same clean, and shall remove the offal to such place as the principal police officer of the division may point out under the directions of the Superintendent of Police; and any person wilfully offending against this section shall be guilty of an offence, and liable to any fine not exceeding twenty rupees.

Common nuisance.

100. It shall be lawful for the Inspector-General of Police or where there is a Municipality for the Municipal Council or its officers, to notify from time to time

in as public a manner as he conveniently can, the place or places in any such town and limits within which persons shall not be allowed to ease themselves under the penalty hereinafter mentioned ; and every person who shall, after such notification shall have been given, ease himself in any place comprehended in such notification, except in some house, outhouse, or enclosed place, with the leave of the occupant thereof, shall be guilty of an offence, and be liable to any penalty not exceeding ten rupees :

Provided always that nothing in this section contained shall be construed into a declaration that persons cannot commit a nuisance by easing themselves in such places as are not comprehended in such notification as aforesaid.

101. All houses and gardens within such parts of any of the said towns and limits as the Minister¹ shall from time to time direct by Order¹ to be for that purpose published in the Gazette shall, within six months after such Order¹ shall have been so published be surrounded with walls or good fences, and be cleared and kept clean of brush and underwood ; and every person neglecting within such time so to surround his house and garden, or to clear and to keep the same clear of brush and underwood, shall be guilty of an offence, and be liable to any fine not exceeding twenty rupees:

Houses to be surrounded with walls or fences, and gardens kept clean.

Provided always that the proprietors of adjoining lands which shall require to be fenced or walled under the provisions of this section shall be liable to make and keep in repair each one-half of such fence or wall, except where by any law or custom such liability shall be otherwise determined.

102. Whereas the punishments assigned to certain offenders under this Ordinance are beyond the jurisdiction of Magistrates' Courts, but it would be frequently more advantageous that such offences should be brought to trial before such courts in order that the punishment of offenders may be more prompt, even though it should be less severe : It is therefore enacted, that in case of any person committing an offence under this Ordinance, and which offence could not otherwise be cognizable by a Magistrate's Court by reason of the punishment to which the same is subject,

Cases may be tried before Magistrates' Courts, though otherwise out of their jurisdiction.

a certificate shall be presented to any Magistrate's Court, signed by the Attorney-General or by some competent Crown Counsel, to the effect that such officer is content that such offence or act shall be prosecuted before such court, it shall be competent to such court to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as Magistrates' Courts are empowered by law to award.

[§ 5, 22 of 1947.]

The preceding provisions of this section shall not apply in the case of any offence under any of the sections 77 to 80 (inclusive); and the Magistrate summarily trying any such offence may impose the full punishment prescribed therefor, notwithstanding that such punishment exceeds the limits placed upon the jurisdiction of a Magistrate by any other law.

Power to prosecute not affected.

103. Nothing contained in this Ordinance shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Ordinance, or to prevent any person from being liable under any other law to any other or higher penalty or punishment than is provided for such offence by this Ordinance :

Provided always that no person shall be punished twice for the same offence.

Interpretation.

104. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

“cattle” shall, besides horned cattle, include horses, asses, mules, sheep, goats, and swine ;

“Government Agent” shall include an Assistant Government Agent of the district ;

“person” shall include a company or corporation ;

“police officer” means a member of the regular police force and includes all persons enlisted under this Ordinance ;

“town” shall include any village or limits set out for the purposes of this Ordinance.

SCHEDULE

Form A

[Section 39.]

To _____.

Take notice that in pursuance of the Police Ordinance, the _____ situated at (_____), the property of _____, has been assessed at the annual value of _____, and that the tax for each quarter due on the _____ day of _____, the _____ day of _____, the _____ day of _____, and the _____ day of _____, amounts to the sum of _____.

You are hereby required therefore to pay the said amount of Rs. _____ into the office of _____ within one month after service hereof, and thereafter within one month after the same shall become due, or in default thereof it will be recovered in due course of law.

Signed this _____ day of _____, 19—.

Government Agent.

A receipt, signed by the Government Agent or his Assistant will be delivered on payment of the sums hereby demanded.

Received this _____ day of _____, on account of the Government of Ceylon, the sum of _____, being the _____ quarter's tax due on the _____ of _____ for the _____.

Government Agent.

Form B

[Section 54.]

CERTIFICATE OF SALE

Whereas _____, of _____, was rated (or taxed, as the case may be) under the Police Ordinance, and became liable in the sum of Rs. _____ inclusive of costs, and made default in the payment thereof: And whereas warrant of distress was issued in conformity with the said Ordinance, and the property of the said _____, to wit (*here describe the property*), was sold on the _____ day of _____, and the same was purchased by _____, for the sum of Rs. _____, which has been duly paid by the said _____:

Now know ye that I, _____, Government Agent of the Administrative District of _____, by virtue of the powers in me vested by the said Ordinance, do hereby certify that such sale and purchase have duly taken place, and that the property above described is and shall henceforward be vested in the said _____, his heirs, executors, administrators, and assigns for ever.

Given under my hand at _____, this _____ day of _____.

A. B.,
Government Agent.

CHAPTER 54

PRISONS

Ordinances

Nos. 16 of 1877,
 1 of 1883,
 24 of 1890,
 3 of 1894,
 14 of 1907,
 17 of 1916,
 4 of 1923,
 50 of 1935,
 53 of 1939,
 3 of 1940,
 9 of 1941,
 41 of 1944,
 12 of 1945,

Acts

Nos. 10 of 1948,
 12 of 1952,
 35 of 1952.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW
 RELATING TO PRISONS.

[1st May, 1878.]

Short title.

1. This Ordinance may be cited as the Prisons Ordinance.

PART I

ESTABLISHMENT AND OFFICERS OF PRISONS

Establishment of prisons.

2. The prisons situated at the places mentioned in the Schedule shall be or continue to be prisons for the reception of prisoners of every description committed or remanded under the authority of any court, having jurisdiction within any part of the districts or limits set opposite the names of such places respectively in the said Schedule :

Prisons may be closed and new prisons established.

Provided always that it shall be lawful for the Minister,¹ by Order,¹ at any time or from time to time to close any of the prisons mentioned in the Schedule, or to make any alteration in the districts or limits within which any such prisons are appointed, and also to establish any other prison or prisons for Ceylon or for any part thereof, and any such Order¹ to revoke, alter, or amend ; and every prison so established shall become subject to the provisions of this Ordinance in the same manner as if such prison had been mentioned in the Schedule.

3. Whenever it appears to the Minister¹ that the number of prisoners in any prison is greater than can conveniently or safely be kept therein ; or whenever from the outbreak of epidemic disease within any prison or for the performance of labour or for any other reason it is desirable to provide for the temporary shelter or safe custody of any prisoners without the walls of any prison, provision shall be made in such manner as the Minister¹ may from time to time specially or by any general rules to be made in the manner provided in section 94 direct, for the temporary shelter or safe custody without the walls of the prison of so many of the prisoners as cannot be conveniently or safely kept therein. Prisoners for whom such shelter or custody is provided as aforesaid shall be subject to the provisions of this Ordinance and to any rules to be made under section 94 in the same manner in every respect as if they were within a prison.

Temporary
shelter of
prisoners.

4. It shall be lawful for the Minister¹ or the Commissioner, by writing under his hand, to direct the removal of any prisoner from one prison to another ; and such writing shall be sufficient warrant for the Superintendent or the jailer of the prison, to which such prisoner shall be so directed to be removed, to receive and detain such prisoner and deal with him according to law.

Minister or
Commissioner
may remove
prisoners
from one
prison to
another.
[§ 2, 53 of 1939.]

5. The warrant or sentence of any Judge, Magistrate, or President of a Rural Court committing any person for any offence cognizable by such Judge, Magistrate or President to any prison wherein such person may be lawfully detained, shall be good and sufficient, whether such prison shall or shall not be within the jurisdiction of such Judge, Magistrate or President.

Warrants of
commitment
by Judges,
&c.,
when good
out of their
jurisdiction.

6. (1) There may be appointed³—

- (a) a person, by name or by office, to be or to act as Commissioner of Prison and Probation Services ;
- (b) a person, by name or by office, to be or to act as Deputy Commissioner of Prison and Probation Services.

Appointment
of
Commissioner
and Deputy
Commissioner
of Prison and
Probation
Services.
[§ 2, 41 of 1944.]
[§ 2, 10 of 1948.]

Direction and control of prisons.

[§ 3, 41 of 1944.]

(2) The general direction and administrative control of all prisons in Ceylon shall, subject to the orders of the Minister,¹ be vested in the person for the time being holding the office of Commissioner of Prison and Probation Services.⁵

[§ 3, 41 of 1944.]

(3) Any power, duty or function vested in, or imposed or conferred upon, the Commissioner, by this Ordinance or by any other written law may, subject to such general or special directions as may be issued in that behalf by the Commissioner with the approval of the Minister,¹ be exercised, performed or discharged by the person for the time being holding the office of Deputy Commissioner of Prison and Probation Services.⁵

[§ 4, 10 of 1948.]

Prison officers.

[§ 4, 53 of 1939.]

7. (1) The staff of every prison shall consist of a Superintendent, a medical officer, a jailer and such number of subordinate officers as the Minister¹ may in each case determine.

(2) In any case where the Minister¹ deems it necessary the staff of a prison may also include one or more of any of the following classes of officers, namely, Assistant Superintendents, Probationary Superintendents, assistant medical officers, deputy jailers, and apothecaries.

(3) In every prison in which female prisoners are detained there shall be at least one female officer.

(4) In every prison there shall be at least one officer competent to interpret the Sinhalese language and one officer competent to interpret the Tamil language.

Appointment and supervision of medical officers and apothecaries.

[§ 5, 53 of 1939.]

8. (1) The medical officer, assistant medical officer or apothecary required for any prison shall be posted to such prison by the Director of Health Services with the concurrence of the Commissioner.

(2) The medical officer, assistant medical officer or apothecary of a prison shall, for the purposes of section 81, be deemed to be a prison officer ; but shall in all other respects be under the supervision and control of the Director of Health Services.

9. All appointments of any such officers as aforesaid heretofore made shall be deemed to have been made under the provisions of this Ordinance.

Past appointments valid.

10. (1) Every prison officer shall, for the purposes of this Ordinance, be deemed to be always on duty.

Officers to be deemed always to be on duty and prisoners always under discipline.

(2) Every prisoner while being taken to or from any prison or while working outside prison walls or remaining for any other authorized purpose under the custody and control of any prison officer beyond the limits of any prison, shall be deemed to be in prison and to be subject to the discipline prescribed by this Ordinance and the rules made thereunder.

11. All prison officers shall be provided with such weapons including batons, staves, arms, ammunition and accoutrements as may be prescribed by rules made under section 94.

Weapons and arms for prison officers.
[§ 7, 53 of 1939.]

PART II

DUTIES OF OFFICERS

12. (1) All prison officers shall obey the directions of the Superintendent.

Officers to obey Superintendent.

(2) The matron and all subordinate officers shall perform such duties as may be directed by the jailer with the sanction of the Superintendent ; and the duties of the matron and of each subordinate officer shall be inserted in a book to be kept by her or him.

13. It shall be the duty of every prison officer to preserve order and discipline among the prisoners in accordance with the provisions of this Ordinance and the rules made under section 94 and of any other written law applicable to prisons ; and for such purpose it shall be lawful for a prison officer to use all such means, including such degree of force, as may reasonably be necessary to compel obedience to any lawful directions given by him.

Duty of prison officers to maintain discipline and order among prisoners.
[§ 8, 53 of 1939.]

Officers not to sell or let to prisoners.

14. No prison officer shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners.

15. No prison officer shall, nor shall any person in trust for or employed by him, have any interest direct or indirect in any contract for the supply of the prison; nor except so far as is expressly allowed by rules made under section 94, shall he derive any benefit directly or indirectly from the sale of any article on behalf of the prison or belonging to a prisoner.

SUPERINTENDENT

Duties of Superintendent.

16. Subject to the directions of the Commissioner, the Superintendent shall—

- (a) manage the prison in all matters relating to discipline, labour, expenditure, punishment, and control;
- (b) correspond on all matters connected with the prison with the Commissioner;
- (c) submit to the Commissioner all prison accounts with proper vouchers for audit;
- (d) periodically inspect all property of the Government in his charge and report thereon to the Commissioner;
- (e) generally obey all rules made under section 94 for the guidance of the Superintendent.

Duties and powers of Assistant Superintendents and Probationary Superintendents.

[§ 9, 53 of 1939.]

17. Any of the duties or functions, imposed on the Superintendent by the provisions of this Ordinance and the rules made under section 94 or of any other written law, may be performed or exercised by an Assistant Superintendent or a Probationary Superintendent, under the general or special directions of the Superintendent, or in the absence of the Superintendent; and for the purposes of the performance or exercise of such duties or functions, an Assistant Superintendent or Probationary Superintendent shall be deemed to have all the powers, privileges, protections and immunities conferred by any of the aforesaid provisions of law upon the Superintendent.

MEDICAL OFFICER

18. (1) It shall be lawful for the Minister after consulting the Minister charged with the subject and function of Health¹ to make rules as to each of the following matters :—

Power to make rules as to medical officer's duties.

- (a) how often the medical officer shall visit the prison and see each prisoner ;
- (b) the records to be made respecting sick prisoners ;
- (c) periodical inspection of every part of the prison ;
- (d) reports on its cleanliness, drainage, warmth, and ventilation ;
- (e) reports on the provisions, water, clothing, and bedding supplied to the prisoners.

(2) The medical officer shall obey all rules made under subsection (1).

Medical officer to obey rules.

19. Whenever the medical officer has reason to believe that the health of a prisoner is or is likely to be injuriously affected by the discipline, diet, or treatment to which he is subjected, the medical officer shall report the case in writing to the Superintendent, together with such recommendations as the medical officer thinks proper.

Medical officer to report cases requiring special attention.

20. (1) It shall be the duty of the medical officer to keep under close observation every prisoner whose health is or is likely to be injuriously affected by any inability or failure to take food or sufficient food, and to subject every such prisoner to any medical treatment that may be necessary at the earliest possible stage after his condition is discovered.

Treatment of prisoners failing or refusing to take food.
[§ 10, 53 of 1939.]

(2) The medical officer may, whenever he considers it to be necessary or advisable, adopt any device or means which may appear to him to be suitable—

- (a) for the compulsory feeding of any prisoner who, in the opinion of the medical officer, feigns inability to take food or wilfully refuses food with intent to procure a discharge from prison or any exemption from labour or for any other reason ; or

- (b) for the artificial feeding of any prisoner who has become unconscious or otherwise unable to feed himself.

(3) The medical officer shall personally carry out the compulsory or artificial feeding required in any case referred to in subsection (2), and shall, in every such case, take all due precautions to ensure that no greater force is used than may be reasonably necessary for the purposes of such feeding.

(4) The medical officer shall report to the Superintendent for the information of the Commissioner, and to the Director of Health Services, full particulars of every case of compulsory or artificial feeding carried out by him.

(5) No criminal prosecution or civil action shall be instituted or maintained against the medical officer in respect of any injury caused or alleged to have been caused to any prisoner by any act of the medical officer in the course of any compulsory or artificial feeding carried out by him or by the omission of the medical officer in the exercise of his discretion to adopt any measures for the compulsory or artificial feeding of the prisoner.

Medical officer to make entries as to death of prisoners.

21. On the death of any prisoner the medical officer shall forthwith record in writing the following particulars, namely :—

- (a) when the deceased was taken ill ;
- (b) when the medical officer was first informed of the illness ;
- (c) the nature of the disease ;
- (d) when the prisoner died ;
- (e) and (in cases where a post-mortem examination is made) an account of the appearances after death ; together with any special remarks that may appear to the medical officer to be required.

Assistant medical officer.

22. Where an assistant medical officer is appointed to a prison, he shall be competent to perform any duty required by this Ordinance or by any rule made hereunder to be performed by the medical officer.

23. The medical officer, and any assistant medical officer or apothecary appointed to a prison shall perform their duties in the prison in co-operation with the prison staff and with due regard to the maintenance of discipline and the security and the proper administration of the prison in accordance with this Ordinance and the rules made in that behalf under section 94 or with any other written law.

Duties of medical officer, &c.
[§ 11, 53 of 1939.]

JAILER

24. (1) The jailer shall reside in the prison or in such convenient place near thereto as the Superintendent shall by writing appoint.

Residence of jailer.

(2) The jailer shall not without the Commissioner's sanction be concerned in any other employment.

25. The jailer shall deliver to the medical officer daily a list of such prisoners (if any) as are confined in punishment cells.

Jailer to deliver lists of prisoners (if any) in punishment cells.

26. Upon the death of a prisoner the jailer shall give immediate notice thereof to the Superintendent and to the Magistrate having jurisdiction over the area in which the prison is situated, and also when practicable, to the nearest relative of the deceased. The jailer shall also report to the Superintendent from time to time, as they occur, all escapes and recaptures. He shall also report to the Superintendent and to the medical officer, without delay, all outbreaks of epidemic disease.

Jailer to give notice of death of prisoners.

27. The jailer shall keep or cause to be kept the following records :—

Jailer to keep books and accounts.

- (a) a register of warrants ;
- (b) book showing when each prisoner is to be released ;
- (c) punishment book for the entry of the punishments inflicted for prison offences ;
- (d) a Visitors' book for the entry of any observations made by Visitors to the prison ;

(e) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules made under section 94.

Jailer responsible for safe custody of documents.

28. The jailer shall be responsible for the safe custody of the records to be kept by him under the preceding section, and also for the commitments and all other documents committed to his care.

Jailer not to be absent without leave.

29. The jailer shall not be absent from the prison or from his residence, if residing outside the prison, for a night without permission in writing from the Superintendent ; but if absent without leave for a night from unavoidable necessity, he shall at the earliest opportunity report the fact and the cause of it to the Superintendent.

Assistant jailer.

30. When an assistant jailer is appointed to a prison, the Superintendent may at his discretion by written order assign any part of the jailer's duties to such assistant jailer ; and in such case the same responsibilities shall attach to such assistant jailer in respect of such duties as attach to the jailer.

Substitute for jailer in case of necessity.

31. Where there is no assistant jailer, or when his services are not available by reason of sickness or other cause, the Superintendent shall, when the jailer is absent from the prison or temporarily incapacitated, appoint by writing under his hand some person to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the jailer.

MATRON

Residence and duties of matron.

32. The matron shall reside in the prison or in such convenient place near thereto as the Superintendent shall by writing appoint ; and she shall not without the Superintendent's sanction absent herself from the prison or from her other dwelling place, nor shall she

without such sanction be concerned in any other employment. It shall be her duty constantly to superintend the female prisoners.

SUBORDINATE OFFICERS

33. The officer acting as gate-keeper, or any other prison officer, may examine anything carried into or out of the prison and may stop and search any person suspected of bringing spirits or other prohibited articles into the prison, and if any such articles or property be found shall give immediate notice thereof to the jailer :

Powers of gate-keeper.

Provided that the persons of females shall be searched by some female prison officer.

34. Subordinate officers shall not be absent from the prison without leave from the Superintendent or from the jailer, and before absenting themselves they shall leave their keys in the jailer's office.

Subordinate officers not to be absent without leave.

PART III

VISITORS

35. (1) It shall be lawful for the Minister,¹ by notice published in the Gazette, to appoint—

Power to appoint, and remove from office, Board of Prison Visitors, Local Visiting Committees, and Additional Prison Visitors.

[§ 12, 53 of 1939.]

(a) for all prisons in Ceylon generally, a Board of Prison Visitors consisting of the Commissioner as chairman and of six other members, of whom four shall be persons who do not hold any public office under the Crown ;

(b) for each of the prisons in Ceylon, a Local Visiting Committee consisting of four persons who are not members of the Board of Prison Visitors and do not hold any public office under the Crown ; and

(c) for any specified prison or group of prisons, one or more Additional Prison Visitors, each of whom shall be a person who is not a member of the Board of Prison Visitors or of a Local Visiting Committee and does not hold any public office under the Crown.

(2) Every member of a Local Visiting Committee shall for the purposes of this Ordinance be deemed to

be a Visitor of the prison for which the committee is appointed, and, save as otherwise expressly provided, shall, in relation to that prison, exercise the powers and perform the duties of a Visitor accordingly.

(3) Any person appointed under this Ordinance as a Visitor may be removed from office by the Minister¹ at any time.

(4) Every Visitor appointed under this Ordinance shall hold office for a period of three years from the date of his appointment, unless he is earlier removed from office by the Minister :¹

Provided, however, that where any Visitor is appointed for any shorter period specified in the notice relating to his appointment, such Visitor shall hold office only for the period so specified.

Duties of
Board of
Prison
Visitors,
Local
Visiting
Committees,
and
Additional
Prison
Visitors.
[§ 12, 53 of 1939.]

36. (1) It shall be the duty of the Board of Prison Visitors—

- (a) to advise the Commissioner in matters relating to the general administration of prisons in Ceylon ; and
- (b) to investigate and report on any matter concerning prisons referred to the board either by the Minister¹ or by the Commissioner.

The quorum for any meeting of the board shall be three members.

(2) It shall be the duty of every Local Visiting Committee—

- (a) to elect a chairman from among the members at a meeting held as soon as may be after the appointment of the committee ;
- (b) to conduct such inquiry as may be necessary, whenever any special matter, concerning the prison for which the committee has been appointed, is referred to the committee for inquiry by the Minister¹ or the Commissioner, and to report their opinion thereon to the Minister¹ or the Commissioner as the case may be ;

- (c) to hold a meeting once in each half-year at the prison for the purpose of considering matters concerning the prison not specially referred to the committee by the Minister¹ or the Commissioner under sub-paragraph (b), and to furnish a half-yearly report to the Commissioner on any matter which in the opinion of the committee it is expedient to refer to him for consideration.

(3) It shall be the duty of the chairman of each Local Visiting Committee—

- (a) to prepare a rota of attendance and to make all such arrangements as may be necessary to ensure that at least one member of the committee shall visit the prison once at least in every week and shall hold himself in readiness to attend at the prison at any reasonable time to hear any complaint that a prisoner may desire to make ;
- (b) to sign all letters and reports on behalf of the committee ; and
- (c) to summon the half-yearly meetings of the committee and all such other meetings as may from time to time be necessary for the purposes of any inquiry to be held under subsection (2) (b).

(4) It shall be the duty of every Visitor who is a member of a Local Visiting Committee—

- (a) to inquire into and report on any matter relating to the prison which may be specially referred to him for inquiry or report by the Minister¹ or the Commissioner ;
- (b) unless he is prevented by illness or other sufficient cause, to visit the prison once at least in every week in any period during which he is required in accordance with the rota of attendance or other arrangements made by the chairman, to visit the prison, and to hold himself in readiness during that period to attend at the prison at any reasonable time to hear any complaint that a prisoner may desire to make ;

- (c) to attend at the prison whenever he is summoned to act as member of a tribunal for the purposes of section 81 ;
- (d) to enter in the log book after each visit made by him to the prison, a statement of all matters relating to the prison which were investigated by him during the visit ; and
- (e) to record in the complaint book each complaint made to him by a prisoner and the proceedings taken by him on such complaint.

(5) Any Additional Prison Visitor shall, in relation to the prison or any of the prisons to which he has been appointed, be entitled to exercise the rights of an individual member of a Local Visiting Committee, and shall, whenever called upon by the Superintendent of such prison, perform in respect of such prison any of the duties imposed by this Ordinance or any other written law upon an individual member of a Local Visiting Committee.

(6) Every Visitor shall, in the performance of his duties, act in conformity with the provisions of this Ordinance, the rules made thereunder and any other written law relating to prisons, and shall co-operate with the prison staff in the maintenance of discipline in, and the good management of, the prison in or in respect of which such duties are performed.

Powers of
Visitors.

[§ 12, 53 of 1939.]

37. (1) Every Visitor shall be entitled—

- (a) to visit any prison at any time ;
- (b) to have free access to any part of any prison or to any prisoner therein ;
- (c) to inspect the condition of any part of the buildings or the premises of any prison, or any appliance or equipment provided therein for the use of the prisoners ;
- (d) to inspect or test the diet provided for the prisoners in any prison ;
- (e) to inquire into the general condition and treatment of the prisoners in any prison ;

- (f) to record in the Visitors' book or in the log book, as the case may be, a statement of the facts discovered by him in the course of any inspection or inquiry under any of the foregoing paragraphs of this subsection and any observations he may desire to make as a result of such inspection or inquiry :

Provided, however, that no Visitor shall be entitled—

- (i) if he is a member of a Local Visiting Committee or an Additional Prison Visitor, to visit or to have access to, or to hold any inspection or inquiry in, any prison other than the prison or one of the prisons for which he has been appointed ; or
- (ii) to hold any inquiry, or make any observation or recommendation, as to any matter connected with the appointment, promotion or transfer of any prison officer or the supervision, control or discipline of the prison staff ; or
- (iii) save as provided in sections 41 (2) and 79, to issue any order to any prison officer or prisoner.

(2) Nothing in this section contained shall be deemed to authorize the Board of Prison Visitors or a Local Visiting Committee to hold any inquiry, or make any observation or recommendation, as to any matter connected with the appointment, promotion, or transfer of any prison officer or the supervision, control, or discipline of the prison staff or to issue any order to any prison officer or prisoner.

38. (1) It shall be the duty of the jailer of every prison—

(a) to keep within the prison—

- (i) a Visitors' book in which Judges of the Supreme Court, Senators and Members of Parliament¹ and members of the Board of Prison Visitors may record any observations or recommendations after a visit paid by them to the prison ;

Visitors'
book, log
book, and
complaint
book.

[§ 12, 53 of 1939.]

(ii) a log book in which members of Local Visiting Committees or Additional Prison Visitors may record statements or particulars of the business transacted during their visits which they are required or authorized to record by this Ordinance or the rules made thereunder ;

(iii) a complaint book in which any Visitor may record the complaints made to him by prisoners and the proceedings taken upon such complaints ; and

(b) to produce the Visitors' book, log book, or complaint book, as the case may be, on demand made by any of the aforesaid persons in the course of any visit made by him to the prison.

(2) It shall be the duty of the Superintendent to transmit to the Commissioner, within such period as may be specified by him, a copy of each new entry made in the Visitors' book or the log book.

(3) The Commissioner may, after consideration of any report transmitted to him under section 36 or section 41 or of any entry in a Visitors' book or log book, of which a copy is transmitted to him under subsection (2), take such action thereon as to him may seem expedient.

Power of Judges and Magistrates and of Senators and Members of Parliament to visit prisons.

[§ 12, 53 of 1939.]

[§ 2, 35 of 1952.]

39. (1) Nothing in this Ordinance shall be deemed to abridge or affect the power of a Judge of the Supreme Court to visit any prison at any time and to hold therein any inspection, investigation or inquiry which he may consider necessary.

(2) Any Senator, Member of Parliament, District Judge or Magistrate may visit any prison, between the hours of 5.30 a.m. and 5.30 p.m. on any day for the purpose of inspecting the general condition of the prison and of the prisoners therein, and may record in the Visitors' book any observations or recommendations which he may think fit to make after such inspection.

[§ 2, 35 of 1952.]

(3) The provision of section 38 as to the production of the Visitors' book and the transmission of copies of entries made therein to the Commissioner shall apply in

the case of Judges of the Supreme Court, Senators, Members of Parliament, District Judges and Magistrates in like manner as in the case of members of the Board of Prison Visitors.

(4) Every District Judge or Magistrate shall for the purposes of this Ordinance be deemed to be a Visitor of any prison situated within his jurisdiction, and may, in relation to any such prison, exercise the powers and perform the duties of a Visitor accordingly.

[§ 2, 35 of 1952.]

40. (1) No jailer or subordinate prison officer shall refuse admittance or offer any hindrance or obstruction to a Visitor, a Judge of the Supreme Court, a Senator, a Member of Parliament, a District Judge or a Magistrate or any other person authorized by any written law to enter a prison.

Penalty for resistance or obstruction to persons authorized to enter prisons.

[§ 3, 35 of 1952.]

(2) A jailer or subordinate prison officer who acts in contravention of this section shall be guilty of an offence and shall be liable to be tried and punished therefor under the provisions of section 87.

[§ 13, 53 of 1939.]

41. (1) Every Visitor appointed under this Ordinance shall hear all complaints which may be made to him by any prisoner respecting any deficiency in the quantity or quality of the food or respecting any ill-treatment that he may have received in the prison.

Visitors to hear complaints and punish or report under section 81.

(2) Where any complaint appears to be frivolous or malicious, the Visitor hearing it may order the confinement of the prisoner making such complaint in a punishment cell for not more than forty-eight hours, and may direct that during the period of such confinement the prisoner be placed on the most restricted diet prescribed by rules under this Ordinance, and the jailer shall comply with every such order or direction.

(3) Where any complaint is substantiated to the satisfaction of the Visitor—

- (a) if in his opinion the complaint is not of a serious character, he shall make a report thereon to the Commissioner, and
- (b) if he considers that the complaint discloses the commission of an offence sufficiently serious to

require the intervention of a Court of Justice, he shall immediately report the matter to the Attorney-General and send a copy of his report to the Commissioner.

PART IV

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

Prisoners to be searched on entrance and as often as necessary.

42. When a prisoner is first admitted, and at any time thereafter when considered necessary, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners.

43. Every criminal prisoner shall also, as soon as convenient after admission, be examined by the medical officer who shall enter in a book to be kept by the jailer a record of the state of the prisoner's health and any observations which the medical officer thinks fit to add.

Finger-printing, &c., of criminal prisoners.
[§ 14, 53 of 1939.]

44. (1) The Commissioner or the Superintendent may cause to be taken or recorded, in such manner as may be prescribed by rules made under section 94—

- (a) photographs, measurements, finger-prints and foot-prints of any criminal prisoner ; and
- (b) the name, age, height, weight, distinctive marks, and any other prescribed measurements and particulars, of any prisoner.

(2) Any prisoner refusing or failing to give any answer, or knowingly giving any answer which is false, to any question addressed to him for the purposes of subsection (1), shall be guilty of an offence against prison discipline.

(3) No photograph, finger-print, foot-print or record taken or kept under this section shall be supplied or sent save to such officers or persons as may be specified by rules made under section 94.

Effects of criminal prisoners retained.

45. All money or other effects in respect whereof no order of a competent court has been made, and which may be brought into prison by any criminal

prisoner or sent to the prison for his use, shall be placed in the custody of the jailer, and disposed of as may be directed by rules to be made under section 94.

46. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

Medical
examination
before
removal
of prisoners.

47. (1) The jailer shall be responsible for the due discharge of each prisoner upon his becoming entitled to release whether by the expiration of his term of sentence, or on the grant of a pardon or on remission or commutation of sentence, or by operation of law.

Discharge of
prisoners.
[§ 15, 53 of 1939.]

(2) The equivalent in days, and the date of expiry, of every sentence of imprisonment or preventive detention, shall be calculated in such manner as may be prescribed by rules made under section 94.

(3) Each prisoner entitled to release shall be discharged from prison on the date on which he becomes entitled to release, or, if that date falls on a Sunday or other day which is for the time being specified in any rule made under section 94 as a non-working day for all prisoners generally, then on the day next preceding that date, at such time as may be prescribed by any such rule :

Provided, however, that where any such prisoner is on that date under medical treatment for any acute or dangerous illness, he may be formally discharged, but unless he himself desires to leave, may be further detained in prison until the medical officer certifies that the prisoner can be removed from prison without danger to his health.

(4) On the discharge of a prisoner from any prison the Superintendent may, in accordance with such rules as may be made in that behalf under section 94, provide him with a railway warrant or with such amount of money as may be necessary, or with both such warrant and such money, to enable him to return to his home or intended place of residence. All expenses incurred by the Superintendent in providing such warrant or money shall be met out of such funds as may be allocated for the purpose out of the Consolidated Fund.

PART V

DISCIPLINE OF PRISONERS

Requisitions
of Ordinance
as to
separation of
prisoners.

48. The requisitions of this Ordinance with respect to the separation of prisoners are as follows :—

- (a) males shall be separated from females ;
- (b) juvenile prisoners, whenever it is practicable, shall be separated from adults ;
- (c) convicted prisoners, whenever it is practicable, shall be separated from unconvicted ;
- (d) civil prisoners, whenever it is practicable, shall be separated from criminal prisoners ;
- (e) prisoners committed for contempt of court or for the non-payment of any fine or penalty or of money due upon any estreated recognizance or for want of securities shall, whenever it is practicable, be separated from other criminal prisoners.

Cells to be
furnished
with means
of communi-
cation.

49. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with a prison officer.

Prisoners
under
sentence of
death.

50. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by or by order of the jailer, and all articles shall be taken from him which the jailer deems it dangerous or inexpedient to leave in his possession :

Provided that the prisoner, if a female, shall be searched by some female prison officer.

Every
prisoner
under
warrant
for execution
to be
separately
confined and
guarded.
Sentence of
hard labour
to be
enforced.

51. Every prisoner under such warrant or order, as is mentioned in the preceding section, shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

52. Due provision shall be made in every prison for the enforcement of hard labour in the cases of such prisoners as may be sentenced thereto.

53. Female prisoners shall in all cases be attended by female officers.

Female prisoners to be attended by females.

54. No gaming shall be permitted in any prison, and the jailer shall seize and destroy all dice, cards, or other instruments of gaming found in the prison or on the person of any prisoner.

No gaming to be allowed.

55. No money shall be taken by any prison officer by way of garnish, fee, or gratuity from any prisoner or any person on his behalf or account, on his entrance into or discharge from or during his detention in the prison, under any pretence whatsoever.

No fee to be taken from a prisoner.

56. The classification, separation, safe custody, treatment and discipline of prisoners shall, without prejudice to the provisions of sections 48 to 55, be subject to such rules as may be made in that behalf under section 94.

Rules as to classification, &c., of prisoners.
[§ 16, 53 of 1939.]

57. Facilities at the discretion of the Commissioner may be allowed in every prison, in accordance with such rules as may be made in that behalf under section 94, for imparting religious or other instruction to the prisoners.

Religious instruction and education.
[§ 16, 53 of 1939.]

58. A remission of sentence, or a gratuity or privileges, according to such scales as may be prescribed by rules made under section 94, may be earned by industry and good conduct by any prisoner who is undergoing a sentence of imprisonment of either description for a term or terms in the aggregate exceeding one month :

Remission of sentences and rewards for good conduct.
[§ 16, 53 of 1939.]

Provided, however, that this section shall not apply to—

- (a) a civil prisoner ; or
- (b) a person committed to prison under Chapter VII of the Criminal Procedure Code ; or
- (c) a person committed to prison to serve the unexpired portion of any sentence of imprisonment or preventive detention upon the forfeiture or revocation of a licence to be at large under the Prevention of Crimes Ordinance.

PART VI

FOOD, CLOTHING, AND BEDDING OF CIVIL PRISONERS

Civil prisoner may maintain himself.
[§ 17, 53 of 1939.]

59. A civil prisoner shall be permitted to maintain himself and to purchase or receive from private sources at proper hours, food, clothing, bedding, or other necessities, but subject to examination and to such conditions as may be approved by the Commissioner.

Civil prisoner not to sell provisions.

60. No part of any food, clothing, bedding, or other necessities belonging to any civil prisoner shall be sold to any other prisoner ; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources for such time as the Superintendent thinks proper.

Allowance of clothing and bedding.

61. Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Nature of food, clothing and bedding of prisoners.
[§ 18, 53 of 1939.]

62. The food, clothing and bedding issued to each prisoner or each class of prisoners shall, without prejudice to the provisions of sections 59, 60, and 61, be in accordance with such rules as may be made in that behalf under section 94.

PART VII

EMPLOYMENT OF PRISONERS

Work and earnings of civil prisoners.

63. Civil prisoners may with the Superintendent's permission work and follow their respective trades and professions, and when they find their own implements, and are not maintained at the expense of the prison or of the Crown, they shall be allowed to receive the whole of their earnings ; but the earnings of such as are furnished with implements or are maintained at the expense of the prison or the Crown shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Examination by medical officer of labouring prisoners.

64. The medical officer shall from time to time examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured

by a continuance of hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment ; but if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the jailer so to employ him.

65. Every prisoner shall perform such labour, whether manual or otherwise, as may be assigned to him ; and the nature and the amount of labour assigned to and exacted from each class of such prisoners shall be in accordance with such rules as may be made in that behalf under section 94 :

Nature of labour or employment to be assigned to prisoners.
[§ 19, 53 of 1939.]

Provided that unconvicted prisoners or civil prisoners shall not be required to perform any labour in excess of such labour as may, in the opinion of the Superintendent, be reasonably necessary for keeping in a clean and proper condition the prison or part of the prison in which they are confined and the clothing, bedding, furniture and utensils allotted to prisoners of the class to which they are assigned, and for preparing and serving the food of prisoners of that class.

PART VIII

HEALTH OF PRISONERS

66. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the jailer ; and the jailer shall without delay call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect the medical officer's written recommendations respecting alterations of the discipline or treatment of such prisoner.

Names of sick prisoners to be reported to jailer. Jailer to report them to the medical officer.

67. All recommendations given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be

Entry of recommendations by medical officer.

entered day by day in his journal, which shall have a separate column, wherein entries shall be made by the Superintendent stating in respect of each recommendation the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Superintendent thinks fit to make, and the date of the entry.

Infirmaries.

68. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

Removal of
prisoners to
hospital, place
of observa-
tion, or
mental
hospital.

[§ 20, 53 of 1939.]

69. (1) Where any prisoner is found or is suspected to be suffering from any disease (other than leprosy or a mental disease) which cannot adequately be treated or kept under observation in a prison, the Commissioner may, by a warrant of transfer under his hand, direct the removal of the prisoner to any public hospital in Ceylon (other than a leprosy hospital or a mental hospital) maintained or controlled by the Government; and such warrant shall be sufficient authority for the detention of the prisoner in the hospital for such period as the medical officer in charge of the hospital may consider necessary.

(2) Where any prisoner is suspected to be of unsound mind or to be suffering from any mental disease, and adequate facilities for keeping him under observation or for diagnosing the disease are not provided in the prison in which the prisoner is detained, the Commissioner may, by a warrant of transfer under his hand, direct the removal of the prisoner to any place of observation or mental hospital appointed or maintained for the purposes of the Mental Diseases Ordinance, and such warrant shall be sufficient authority for the detention of the prisoner in such place or hospital for any period not exceeding fourteen days in the first instance; and where any further observation is required, the Commissioner may authorize in writing the detention of the prisoner for such further period as may be necessary, but so that the aggregate period of detention in such place or hospital shall not exceed twenty-eight days in any case.

(3) Every prisoner who is removed to a hospital under subsection (1) or to a place of observation or mental hospital under subsection (2) shall, during the

period of his detention therein and so long as he is not entitled to be discharged from prison in due course of law, continue to be subject to the provisions of this Ordinance, the rules made thereunder and any other written law relating to prisons, in the same manner and to the same extent as if he were detained in a prison.

(4) The medical officer in charge of the hospital or the place of observation or mental hospital to which a prisoner is removed under subsection (1) or subsection (2), as the case may be, shall, in respect of that prisoner, and during the period of the detention of that prisoner in such hospital, place or mental hospital and so long as he is not entitled to be discharged from prison in due course of law, have the powers conferred, and perform the duties imposed, on the Superintendent of a prison by this Ordinance or the rules made thereunder or by any other written law.

(5) Where a prisoner removed under subsection (2) to a place of observation or a mental hospital is found by the medical officer in charge thereof to be of unsound mind, the medical officer shall, by writing under his hand, certify to the Commissioner that the prisoner is of unsound mind; and such writing shall, for the purposes of section 9 of the Mental Diseases Ordinance be deemed to be the certificate of the medical officer referred to in that section.

(6) The Superintendent of the prison from which a prisoner is removed under this section to a hospital or place of observation or mental hospital shall cause him to be taken back to the prison as soon as may be after the medical officer certifies in writing that it is no longer necessary to detain the prisoner in such hospital, place of observation or mental hospital.

70. All prisoners shall be furnished with proper means of washing or otherwise cleansing themselves and of having their clothing washed; and provision shall be made for their bathing within the prison, if possible, or otherwise at the nearest convenient place; and during such bathing or washing care shall be taken that different classes and sexes of prisoners be kept separate.

Bathing of prisoners.

PART IX

VISITS TO AND CORRESPONDENCE OF PRISONERS

Visits from and communication with relations, &c.
[§ 21, 53 of 1939.]

71. Every prisoner shall be allowed, in accordance with such rules as may be made in that behalf under section 94, to receive visits from, and to communicate with, his relations and friends and his legal adviser, subject to such restrictions as may be imposed by the rules with a view to the maintenance of discipline and order in the prison and the prevention of crime.

Powers of jailers as to admission of persons desiring to visit prisoners.
[§ 21, 53 of 1939.]

72. (1) The jailer may—

- (a) demand the name and address of any person desiring to visit a prisoner ; and
- (b) where he has ground for suspicion, search or cause such person to be searched before giving him admission ; and
- (c) where such person does not submit to such search, deny him admission.

(2) Whenever the jailer denies admission to any person under subsection (1), the reasons for his decision shall be recorded by him in his journal.

(3) A search under this section shall not be carried out in the presence of any person other than a prison officer.

(4) Where a person desiring to visit a prisoner is a female, no search necessary for the purposes of this section shall be carried out except by a female prison officer or in the presence of any person other than a female prison officer.

PART X

OFFENCES IN RELATION TO PRISONS

Carrying liquor, tobacco, or drugs into prison.
[§ 22, 53 of 1939.]

73. Whoever, without lawful authority, brings, throws, or attempts by any means whatever to introduce into any prison or any place provided under section 3 for the temporary shelter and safe custody of prisoners, or who supplies or attempts to supply to any prisoner, while in custody outside any prison, any

spirituous or fermented liquor, or tobacco, betel, opium, bhang, or other intoxicating or poisonous drug, or any money or any other article which may be prohibited by any rule made under section 94, and every prison officer who knowingly suffers any such liquor, tobacco, betel, opium, bhang, drug, money, or other article to be brought, thrown, or introduced into or used in any such prison or place or to be supplied to any prisoner, while in custody outside any prison, without lawful authority, and whoever aids and abets any person in committing any offence under this section, shall be guilty of an offence, and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment of either description, for any period not exceeding three months, or to both.

Suffering liquor, &c., to be sold or used in prison.

[§ 22, 53 of 1939.]

74. It shall be lawful for any prison officer to arrest any person who commits an offence under section 73 or who abets another in committing such offence, and forthwith to make over the person so arrested to the nearest police officer, or to produce him before the nearest Magistrate, to be dealt with according to law.

Offenders under section 73 may be arrested without warrant by prison officers.

75. Whoever, without lawful authority, conveys or attempts to convey any letter or other writing to any prisoner in custody, whether within or without any prison, or from any such prisoner to any other person, and every prison officer who aids and abets any person in committing any offence under this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment of either description, for any period not exceeding three months, or to both.

Carrying letters to prisoners.
[§ 22, 53 of 1939.]

Prison officers abetting.

76. The Superintendent shall cause to be affixed in a conspicuous place outside the prison or the place provided as aforesaid a notice in the English, Sinhalese, and Tamil languages respectively, setting forth the penalties incurred by persons committing any offence under sections 73 and 75 respectively.

Notice of penalties to be affixed outside prison.

77. (1) A prison officer may use weapons on or against any prisoner escaping or attempting to escape from custody :

Use of weapons and force.
[§ 23, 53 of 1939.]

Provided that resort shall not be had to the use of any weapon unless such officer has reasonable ground for believing that he cannot otherwise prevent the escape of the prisoner ;

And provided further that no firearms shall be used on or against any such prisoner unless the prison officer shall have first given a warning to the prisoner that he is about to use such firearms against the prisoner.

(2) A prison officer may use weapons on or against any prisoner engaged in any combined outbreak of the prisoners or in any attempt to force or break open the doors, gates or enclosure wall of a prison, and may continue to use such weapons so long as such combined outbreak or attempt is actually continued.

(3) No prison officer shall, in the presence of a senior officer of rank not lower than a Jailer or Deputy Jailer or officer for the time being acting for the jailer, use weapons on or against any prisoner engaged in an outbreak or attempt to escape, unless such senior officer orders such weapons to be used.

(4) The use of weapons under this section shall be as far as possible to disable and not to kill.

(5) Every police officer who is for the time being engaged in escorting any prisoner or prisoners, or in guarding any prison or other place where prisoners are confined or employed, or in assisting in the quelling of any disturbance or violence on the part of any prisoners, or in recapturing any escaped prisoner, shall be deemed to have all the powers and rights granted by this section to prison officers.

(6) Nothing in this section contained shall be deemed to be in derogation of the provisions of sections 89 to 99, inclusive, of the Penal Code.

List of
prison
offences.

78. A prisoner shall be guilty of an offence against prison discipline if he—

- (i) mutinies or incites another prisoner to mutiny ;
- (ii) assaults or uses criminal force on, or causes hurt or grievous hurt to, a prison officer or another prisoner, or incites a fellow prisoner to commit any such offence ;

- (iii) fails or refuses to obey any lawful order of the Superintendent or of any other prison officer or commits a breach of any prison regulation ;
- (iv) escapes or conspires to escape from lawful custody ;
- (v) swears, curses, or uses any abusive, insulting, threatening or other improper language or gesture ;
- (vi) is indecent in language, conduct, act or gesture ;
- (vii) is impertinent, insubordinate or insolent in demeanour to any prison officer or to any Visitor ;
- (viii) creates a disturbance or behaves in a disorderly manner ;
- (ix) refuses to work, or wilfully mismanages work, or fails to perform his allotted task, or is idle, careless or negligent at work ;
- (x) wilfully evades labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work ;
- (xi) wilfully damages or disfigures any part of the prison, any prison property or any prison clothing or equipment ;
- (xii) is in possession of, or keeps in a cell or any other place any article not permitted by the rules of the prison ;
- (xiii) leaves a cell or other place of work or location without permission ;
- (xiv) gives to, or receives from, or exchanges with, any other prisoner any article whatever without the permission of the Superintendent ;
- (xv) trafficks or has any business dealings with any prison officer or with any other person ;
- (xvi) without the authority of a prison officer, communicates whether by writing, speech or gesture with any person who is not connected with the administration of the prison ;

- (xvii) gambles, or possesses any playing cards, dice or other instrument or device for gambling ;
- (xviii) prefers a false charge against a prison officer or another prisoner or incites any other prisoner to do so ;
- (xix) makes groundless complaints or incites others to do so ;
- (xx) removes food from the place where meals are consumed, or conceals food ;
- (xxi) commits any nuisance ;
- (xxii) bathes or washes at unauthorized places or times ;
- (xxiii) writes or receives any unauthorized letter or communication ;
- (xxiv) refuses when called upon to assist a prison officer in quelling a mutiny or disturbance or in capturing any escaped or escaping prisoner, or leaves his seat, working place or other location during a mutiny or disturbance without an order from a prison officer ;
- (xxv) omits to give a warning or an alarm when it is known that a prisoner is escaping or attempting to escape ;
- (xxvi) omits to give immediate information to the prison authorities when he is aware of a design to commit an offence against the rules ;
- (xxvii) files, cuts or tampers with iron bars, locks or doors ;
- (xxviii) commits a breach of any rule or lawful order ;
- (xxix) offends in any other way against the good order and discipline of the prison ;
- (xxx) aids and abets another prisoner in committing or attempting to commit any of the foregoing offences against prison discipline ; or
- (xxxi) attempts to commit any of the foregoing offences other than those specified in paragraphs (iii), (v), (vii), (viii), (ix), (xii), (xix), (xxiv), (xxv), and (xxvi).

79. Save as provided in section 81, the Superintendent or in his absence a Visitor, may examine any person touching the offences in the preceding section mentioned, and determine thereupon and punish such offences—

Superintendent's power to punish prison offenders.

- (a) by warning or reprimand ;
- (b) by the forfeiture of any number of remission marks not exceeding three hundred and sixty for each offence ;
- (c) by reduction to a lower class or detention in any class for a period in respect of each offence not exceeding one month if that class is the prescribed penal stage, or ninety days in any other case ;
- (d) by postponement or forfeiture of any one or more privileges ;
- (e) by confinement in a punishment cell for any time not exceeding fourteen days ;
- (f) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as shall be prescribed by any rule made under the provisions of section 94 ;
- (g) where the offender is not serving a sentence of rigorous imprisonment, by hard labour for any time not exceeding seven days ; or
- (h) by any two of the above-mentioned punishments:

Provided that—

- (i) in all cases where the complaint is made by or on behalf of the Superintendent or the Commissioner, and in other cases in which the interests of justice may so require, the offences shall be tried and punished only by a Visitor, and
- (ii) the Commissioner shall have power—
 - (a) to call for and revise any proceedings taken under this section by the Superintendent and to confirm, modify or reverse his findings ;

- (b) to remit or vary the punishment awarded by the Superintendent ; or
- (c) to make such order thereon as justice may require, other than an order increasing the punishment awarded by the Superintendent.

Jailer to enter punishments in a book.

80. The jailer shall enter in a separate book, called the Punishment Book, a statement of the nature of any offence that has been punished under the preceding section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the Superintendent or by the Visitor who shall have inflicted such punishment.

Constitution and powers of tribunal for punishment of prisoners.
[§ 24, 53 of 1939.]

81. (1) (a) If any prisoner is charged with mutiny or incitement to mutiny, or with escape or attempt to escape or abetment of escape from lawful custody, or with causing hurt or grievous hurt to a prison officer or with attempt to cause hurt or grievous hurt to a prison officer by means of any instrument for shooting, stabbing or cutting, or any instrument which, when used as a weapon of offence, is likely to cause death ; or

(b) if any prisoner is charged with any offence against prison discipline which, in the opinion of the Superintendent or a Visitor acting under section 79, is not adequately punishable by him or is not adequately punishable under that section by reason of the prisoner's record of previous convictions of offences against prison discipline, the Superintendent shall in the former case, and the Superintendent or Visitor may in the latter, cause the offender to be tried by a tribunal consisting of the District Judge of the district in which the prison is situated and two Visitors who shall be members of the Local Visiting Committee, unless for any reason no member of that committee is able to serve on that tribunal.

(2) Every inquiry into a prison offence under this section shall be held in the prison on such date not later than seven days after the receipt of information of the offence from the Superintendent, as the District Judge may appoint :

Provided that no delay beyond the aforesaid period of seven days shall be deemed to invalidate any inquiry held under this section, if the District Judge certifies that the delay was due to a cause which, in his opinion, is good and sufficient.

[§ 24, 53 of 1939.]

(3) Every Visitor summoned for the purpose of acting in a judicial capacity under the provisions of this section shall attend at the prison on the date and at the time specified unless prevented by illness or other sufficient cause :

Provided that in the event of either or both of the Visitors summoned failing so to attend, the District Judge and the Visitor who is present or the District Judge alone, as the case may be, may perform all the functions and exercise all the powers of the tribunal.

(4) The tribunal shall have power to inquire into the offence upon oath or affirmation and by a majority verdict to punish the offender—

- (a) with confinement in a punishment cell for any time not exceeding one month ; or
- (b) with any one of the several punishments a Superintendent is authorized to impose under section 79 ; or
- (c) with imprisonment of either description for a term not exceeding five years in the case of the offence of escaping or attempting to escape from lawful custody or the abetment of any such offence and not exceeding six months in any other case ;
- (d) with corporal punishment not exceeding twenty-four lashes with a whip or twenty-four strokes with a rattan in the following cases :—
 - (i) mutiny or incitement to mutiny,
 - (ii) causing hurt or grievous hurt to a prison officer, or attempting to cause hurt to any such officer by means of an instrument for shooting, stabbing, or cutting or any instrument which, when used as a weapon of offence, is likely to cause death ; or

(e) with a combination of any two of the above-mentioned punishments.

[§ 24, 53 of 1939.]

(5) Nothing in this section shall authorize the infliction of corporal punishment on any offender below the age of sixteen years otherwise than in accordance with the provisions of the Corporal Punishment Ordinance, or on any female prisoner or on any civil prisoner or on any person remanded by a court pending inquiry or trial.

(6) In any case where the whole or any part of a sentence of corporal punishment cannot for any reason be carried into execution, the Superintendent shall report the fact to the District Judge who, with the concurrence of the other members of the tribunal which inquired into the offence, may order that in lieu of corporal punishment or in lieu of so much of the corporal punishment as was not carried out, the offender be punished with imprisonment of either description for any term which the tribunal is competent to impose, any imprisonment so imposed being in addition to any other punishment already imposed on the offender for that offence :

Provided that if for any reason the report of the Superintendent under this subsection cannot be considered by the tribunal which originally inquired into the offence, it shall be competent for another tribunal duly constituted under this section to consider such report and to make order thereon as herein before provided.

(7) A term of imprisonment imposed under this section shall not run concurrently with, but shall be in addition to, any term of imprisonment or of preventive detention which the offender may be undergoing at the time of the inquiry.

(8) Any term of imprisonment imposed under any other written law on an offender at any time while he is serving a term of imprisonment imposed under this section, shall commence on the expiry of the term of imprisonment imposed under this section.

Punishment
for evasion
of labour.

[§ 25, 53 of 1939.]

82. (1) Where a prisoner, undergoing any sentence or punishment of any description duly imposed on him, is convicted, under section 79 or section 81 or under

any other written law, of any of the following offences against prison discipline, namely—

- (a) refusing to work,
- (b) failing to perform his allotted task,
- (c) wilfully evading labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work,

he shall, after undergoing such sentence or punishment as may be imposed on him for that prison offence, undergo for an additional period equal to the period during which that prison offence may have been continued, the sentence or punishment which he was undergoing at the time the prison offence was committed.

(2) Where any new sentence of imprisonment is imposed on a prisoner after the date of his conviction of any of the offences specified in subsection (1), such new sentence shall commence only on the expiry of the additional period referred to in that subsection.

83. Every prisoner found guilty by a court of law, or by the authority or tribunal specified in section 79 or section 81 either of assaulting or using criminal force on or causing hurt or grievous hurt to a prison officer or of an escape or an attempt to escape, shall, if the Commissioner by order in writing so directs, in addition to any other punishment—

Additional penalties for prisoners guilty of escape or of assaulting prison officers.

- (a) forfeit all or any of the remission marks previously earned by him ;
- (b) be classed and treated in all other respects as a prisoner commencing a new sentence ;
- (c) wear, for such period as may be specified in the order, such distinctive clothing as may be prescribed by rules made under section 94.

84. There shall be no appeal from a conviction or sentence under section 79 or section 81.

No appeal from convictions under section 79 or section 81.

Ordinary
criminal
courts to
retain
jurisdiction.

85. Nothing contained in sections 79, 81, 82, 83, and 84 shall be deemed to deprive any competent court in Ceylon of its jurisdiction to hear and determine any charge in respect of an offence punishable under the Penal Code or any other written law :

Provided, however, that no person shall be punished both under the aforesaid sections and by a court for the same offence.

Corporal
punishment.

86. All corporal punishment within the prison shall be inflicted in the presence of the Superintendent or a Visitor and the medical officer, subject to the law for the time being in force relating to the infliction of corporal punishment.

Punishment
of offences
committed by
prison
officers.
[§ 26, 53 of 1939.]

87. (1) Any jailer or subordinate prison officer charged with ill-treating a prisoner, or with negligence or remissness or inefficiency in the discharge of his duties, or with a contravention of any of the provisions of this Ordinance or of any rule made thereunder, or with any other misconduct, may be dealt with in accordance with the regulations for the time being in force relating to the dismissal or other punishment of public officers.

(2) Every jailer or subordinate prison officer, who ill-treats a prisoner or contravenes any of the provisions of this Ordinance or of any rule made thereunder, shall be guilty of an offence and may, where he is not in the discretion of the Commissioner dealt with under subsection (1), be prosecuted in the Magistrate's Court having jurisdiction over the place where the offence is alleged to have been committed, and punished by such court on conviction after summary trial with a fine not exceeding two hundred rupees, or with imprisonment of either description for a term not exceeding three months or with both such fine and such imprisonment.

(3) No person shall be punished both under subsection (1) and under subsection (2) for the same offence.

PART XI

RESTRAINTS

88. No prisoner shall be put under mechanical restraint as a punishment.

Prohibition of mechanical restraint as punishment.

89. (1) A prisoner may, when confined in an insecure place or whenever he is outside prison walls, be put in handcuffs solely as a measure of precaution against violence, disturbance, mutinous conduct, escape, or rescue and, where the number of such prisoners being males exceeds two, they may for the same reason, be secured by a gang chain and wrist-cuffs.

Means of restraint for purposes of extra-mural security.

(2) A male prisoner, when confined in an insecure place or whenever he is outside prison walls, may, with the approval of a medical officer, be put in body-belt with side-cuffs to prevent violence, disturbance, mutinous conduct, escape or rescue, but only on the orders of a prison officer not below the rank of Jailer.

90. When, in order to prevent any prisoner from injuring himself or others, or damaging property or creating a disturbance, or using violence, or in any case of insubordination or mutiny, it is necessary, in the interests of discipline, to place him under mechanical restraint, a prison officer not below the rank of Jailer (or in the case of a prisoner mentally deranged, the medical officer) may order him to be placed under mechanical restraint. The use of restraints under this section shall forthwith be reported to the Superintendent, who shall inquire into the matter, give such orders as appear to be necessary and report the circumstances to the Commissioner for final decision.

Means of restraint for purposes of intra-mural discipline.

91. No prisoner shall be kept under mechanical restraint for a longer period than is necessary, and in no case for more than twenty-four consecutive hours unless an order approving such restraint and specifying the cause and duration thereof is made by the Commissioner. Such order shall be preserved by the Superintendent as his authority for the employment of restraint.

Duration of restraint.

Register of
Restraints.
[§ 27, 53 of 1939.]

92. Particulars of every case in which any mechanical restraint is used under section 89 (2) or section 90 shall be forthwith recorded by the Superintendent in a "Register of Restraints" which shall be kept in every prison in such form as may be prescribed by rules under section 94.

Means of
restraint to
be prescribed.

[§ 28, 53 of 1939.]

93. No handcuffs, body-belts or other mechanical means of restraint shall be used except of such patterns and in such manner and under such conditions as may be prescribed by rules made under section 94.

PART XII

MISCELLANEOUS

Power to
make rules.
[§ 29, 53 of 1939.]

94. (1) The Minister¹ may from time to time make all such rules, not inconsistent with this Ordinance or any other written law relating to prisons, as may be necessary for the administration of the prisons in Ceylon and for carrying out or giving effect to the provisions and principles of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, the Minister¹ may make rules for all or any of the following purposes or matters :—

- (a) the medical examination and the taking of measurements, photographs, finger-prints, foot-prints or other records, of prisoners, including particulars of the previous history of any such prisoners ;
- (b) the persons, if any, to whom such measurements, photographs, finger-prints, foot-prints or other records may be sent or supplied ;
- (c) the disposal of the clothing and property of prisoners on admission ;
- (d) the classification, separation, safe custody, treatment and discipline of prisoners, and the classes of diet to be provided for prisoners ;
- (e) the specifications and requirements of the several types of cells and wards ;
- (f) the kind of labour to be exacted from prisoners at the different stages of their imprisonment, the manner in which and the place or places at which such labour may be exacted ;

- (g) the computation of sentences ;
- (h) visits to prisoners, and correspondence or other communication with prisoners ;
- (i) the religious instruction and the education of prisoners ;
- (j) rewards for good conduct and the remission of sentences to be allowed to prisoners for industry and good conduct, and the conditions in which such remissions may be allowed ;
- (k) means of restraint, the patterns or types that may be used and the circumstances and the manner in which they may be used ;
- (l) the supply of money, food, clothing or means of travelling to prisoners on their discharge ;
- (m) rewards for the recapture of escaped prisoners ;
- (n) the sanitation of the prisons and the health of prisoners and prison officers ;
- (o) inspection, inquiries and other proceedings by Visitors ;
- (p) the duties of the Superintendent and other prison officers, and of persons appointed to act as jail guards or sentries or as escorts for the purposes of the custody of prisoners outside prison walls ;
- (q) any other purposes or matters for which rules are authorized or required by this Ordinance or by any other written law in any context relating to prisons.

(3) No rule made under this section shall have effect until it is approved by the Senate and the House of Representatives¹ and notification of such approval¹ is published in the Gazette. Every rule, in respect of which such notification is published, shall be as valid and effectual as if it were herein enacted.

95. A copy of the committal of any prisoner by a competent court, or a copy of the extract from the calendar relating to any prisoner who may have been convicted by the Supreme Court, shall, if such copy be certified by the Superintendent of any prison, be sufficient prima facie evidence for all purposes of the lawful custody of such prisoner :

Certified copy
of committal
sufficient
evidence of
lawful
custody.

Provided, however, that it shall be lawful for a competent court to require the production of the original committal, where the court shall deem the same necessary.

Order for production of prisoners before any court.

96. Whenever any prisoner is required to appear before any court, to give evidence, or for any other purpose, it shall be lawful for such court in its discretion, if it considers the presence of such prisoner necessary for the ends of justice, by an order in writing to direct the Superintendent of the prison, where such prisoner shall be imprisoned, to produce such prisoner before such court, and such Superintendent shall in the absence of good and sufficient cause to the contrary, cause such prisoner to be produced in compliance with such order.

No prisoner to be an assessor at an inquest.

97. In case any Magistrate or inquirer shall hold an inquest on the body of any prisoner who shall have died while in custody, no prison officer or prisoner or person engaged in any trade or dealing with the prison shall be an assessor at such inquest.

Warrants may be addressed to Fiscal, who shall give prisoner into charge of jailer.

98.* All warrants of commitment (except warrants of commitment for trial) and all warrants of remand or of arrest in civil or criminal process issued by any court, may, as heretofore, be addressed to the Fiscal or Deputy Fiscal, and such Fiscal or Deputy Fiscal shall, with as little delay as possible after taking charge of or arresting the person required by such warrant to be committed, remanded, or arrested, give such person into the charge of the Superintendent or jailer of some prison of the district over which such court may have jurisdiction, together with a copy of the warrant certified under the hand of such Fiscal or Deputy Fiscal. It shall thereupon become the duty of such Superintendent or jailer to take charge of and keep safely such prisoner until he shall be delivered from prison in due course of law. And the copy of such warrant, so certified as aforesaid, shall be sufficient prima facie evidence for all purposes of the lawful custody of such prisoner.

* Repealed so far as it was provided for by section 377 of the Criminal Procedure Code, 1883. See also the Criminal Procedure Code and the Civil Procedure Code.

99. It shall be the duty of the jailer to deliver over to the Fiscal or Deputy Fiscal having jurisdiction in the district in which the prison is situated, or to any person authorized in writing in that behalf by such Fiscal or Deputy Fiscal, any civil and any unconvicted criminal prisoner in charge of such jailer, whenever so required by such Fiscal or Deputy Fiscal or authorized person aforesaid :

Jailer to deliver over to Fiscal civil and unconvicted criminal prisoners, when so required.

Provided, however, that no civil prisoner shall be removed or allowed by the Fiscal or Deputy Fiscal to go beyond the walls or other enclosed limit of the prison, in which such prisoner may be confined, unless upon special rule and order of court requiring the attendance of such prisoner, or upon the application of such prisoner to be carried before any such court for the purpose of preferring any complaint or application.

Civil prisoner not to go beyond limit of prison except by order of court.

100. The allowance for the maintenance of judgment-debtors when supplied to the Fiscal under the provisions of section 315 of the Civil Procedure Code, shall be paid by the Fiscal to the jailer of the prison wherein such prisoners are confined, for the purpose of such maintenance.

Allowance for maintenance of judgment-debtors to be paid over by Fiscal to jailer.

101. All warrants of commitment for trial or of remand or deliverance from prison issued by any court, shall be addressed to the Superintendent or jailer of the prison to or from which the person named in the warrant is to be committed or delivered, and such Superintendent or jailer shall directly carry such warrant into effect according to law.

Warrants of commitment, &c., to be addressed to the Superintendent or jailer of the prison.

102. There shall be affixed in a conspicuous part of every prison in which judgment-debtors are confined a table of rates of prison allowance for judgment-debtors, in the English language, together with a translation thereof in the Sinhalese and Tamil languages respectively.

Table of rates of allowance for judgment-debtors to be affixed in prison.

103. All actions which may lawfully be brought against the Government of Ceylon or against any prison officer, in respect of any act done in pursuance of this Ordinance or the rules made thereunder or any

Bar of actions.
[§ 30, 53 of 1939.]

other written law for the time being in force relating to the prisons in Ceylon, shall be instituted within six months from the date of such act and not afterwards.

Interpretation.

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

“assault”, “criminal force”, “hurt”, and “grievous hurt”, respectively, have the same meaning as in the Penal Code ;

“civil prisoner” means—

- (a) a judgment-debtor committed to prison under the Civil Procedure Code ; or
- (b) a person committed to prison under section 280 of the Criminal Procedure Code, in default of payment of a fine imposed under that section of that Code ; or
- (c) a person ordered to be detained in prison under section 383 of the Criminal Procedure Code ; or
- (d) a person committed to prison under section 411 (4) of the Criminal Procedure Code ; or
- (e) a person committed to prison for contempt of court, not being a person sentenced—
 - (i) to rigorous imprisonment for contempt of court ;
 - (ii) to simple or rigorous imprisonment as for a contempt of court under section 440 (1) of the Criminal Procedure Code ; or
- (f) a person committed to prison by order of a civil court under any provision of written law which does not authorize a sentence of rigorous imprisonment to be imposed ;

“close confinement” means confinement which deprives a prisoner of all means of communication with other prisoners ;

[§ 3, 41 of 1944.]

“Commissioner” means the Commissioner of Prison and Probation Services ;

“court” includes a Rural Court ;

“criminal prisoner” means any prisoner other than a civil prisoner ;

“prison” includes any prison hospital and any grounds or buildings occupied or used for the purposes of the prison ;

“prison officer” means an officer of the prison staff ;

“punishment cell” means an unfurnished cell used for the purpose of carrying out any punishment ;

“Visitor” means—

(a) a member of the Board of Prison Visitors or of a Local Visiting Committee, acting individually in any matter in which he is authorized by this Ordinance to act individually, or

(b) an Additional Prison Visitor.

SCHEDULE

<i>Prisons</i>	<i>Limits or Districts</i>	[Section 2.]
Anuradhapura	} The whole of Ceylon.	
Badulla		
Batticaloa		
Breakwater *		
Galle		
Hulftsdorp		
Jaffna		
Kalutara *		
Kandy, Bogambara		
Kandy, Remand Prison		
Kegalla *		
Kundasale, Open Prison Camp		
Mahara		
Mannar *		
Matara, Old Fort premises		
Negombo		
Slave Island *		
Tangalla		
Trincomalee *		
Welikada		
Welikada, Remand Prison		
Welikada, Old Magazine premises		

<i>Prisons</i>	<i>Limits or Districts</i>
Chilaw *	.. The limits for the time being of the jurisdiction of the District Court of Chilaw.
Matale *	.. The limits for the time being of the jurisdiction of the Magistrate's Court of Matale.
Mullaittivu *	.. The limits for the time being of the jurisdiction of the District Court of Mullaittivu.
Panadure *	.. The limits for the time being of the jurisdiction of the Panadure Magistrate's Court.

* These prisons have been closed by Order of the Minister published in Gazette No. 10,640 of 12th February, 1954.

CHAPTER 55

REMOVAL OF PRISONERS

Ordinance
No. 13 of 1911.

AN ORDINANCE TO MAKE PROVISION FOR THE REMOVAL OF PRISONERS FROM CEYLON WHO HAVE BEEN SENTENCED TO DEATH, BUT WHOSE SENTENCE SHALL HAVE BEEN COMMUTED.

[11th August, 1911.]

Short title.

1. This Ordinance may be cited as the Prisoners Removal Ordinance.

Removability of prisoner whose death sentence is commuted. (47 & 48 Vict. c. 31.)

2. Prisoners who shall have been sentenced to death, but whose sentence shall have been commuted to a sentence of imprisonment, shall be subject to removal from Ceylon under the Colonial Prisoners Removal Act, 1884.

Concurrence of Government to be given by Governor-General.

3. The concurrence of the Government of Ceylon on the removal of any such prisoner shall be given by the Governor-General.^s

Powers of Government to make agreements.

4. (1) It shall be lawful for the Government of Ceylon¹ to enter into an agreement with the Government of any of Her Majesty's Realms and Territories for the purpose of regulating—

- (a) the conditions under which prisoners subject to removal under this Ordinance shall be removed to such realm or territory ;
- (b) the payment of the costs incurred in the removal, maintenance, return, or sending back after discharge of such prisoners.

(2) Every such agreement shall be published in the Gazette.

Interpretation.

5. This Ordinance shall be read in connection with the Colonial Prisoners Removal Act, 1884, and all words and expressions used in this Ordinance shall have the same meaning as the same words and expressions used in that Act.

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