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ANNOTATED LAWS OF PALESTINE

A STATEMENT OF THE STATUTE LAW
OF PALESTINE IN ALPHABETICAL ORDER
WITH CROSS-REFERENCES, ANNOTATIONS
TO DECIDED CASES, NOTES ON PRACTICE, ETC.

BY

A. M. APELBOM, LL. B.
BARRISTER AT LAW, ADVOCATE

FOREWORD

BY

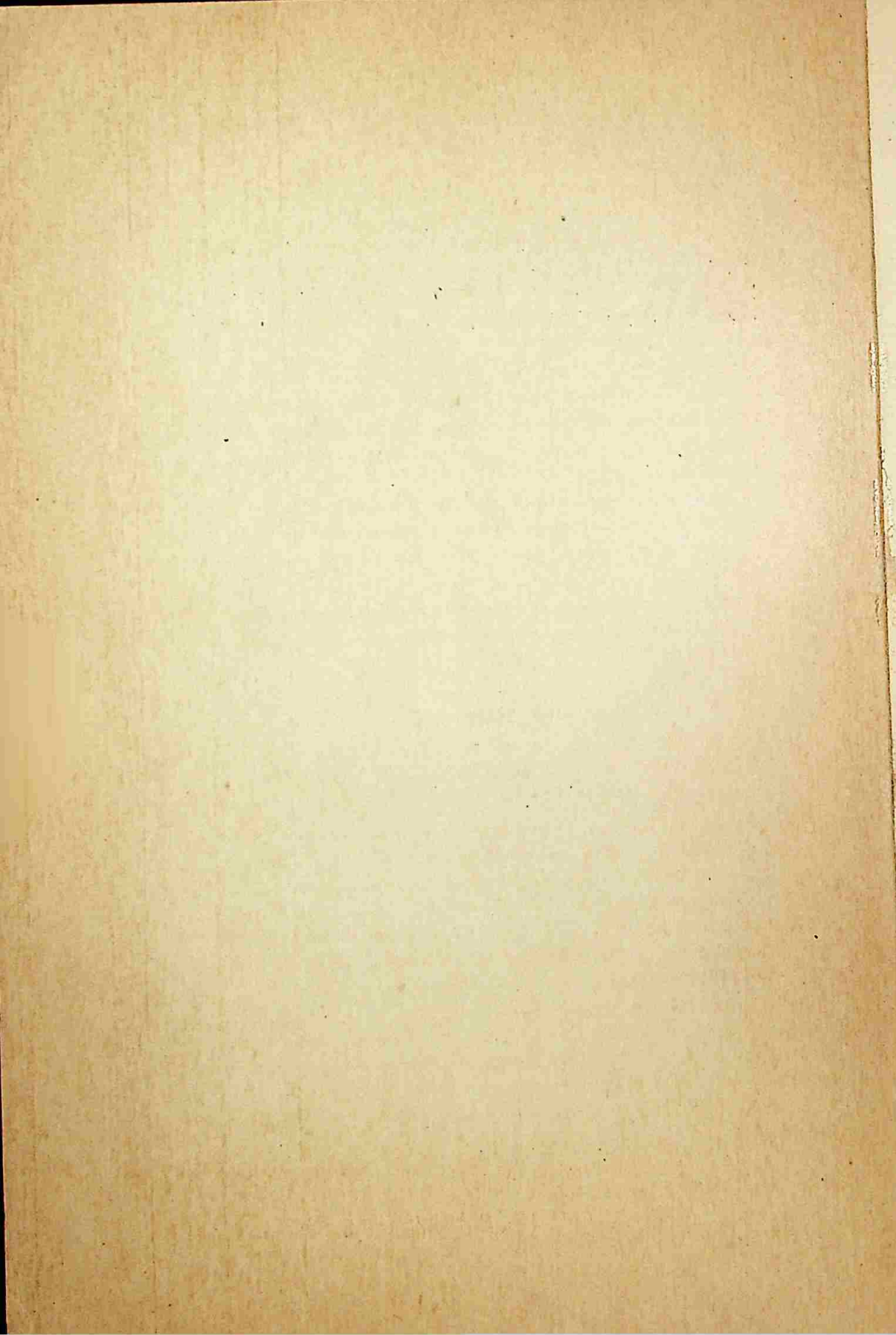
SIR W. J. FITZGERALD, K.B., K.C., M.C.
CHIEF JUSTICE OF PALESTINE

Vol. I.

ADVOCATES/AGRICULTURAL FERTILIZERS/AIN FARA SPRING/AIR.

S. B U R S I, L A W P U B L I S H E R
20, A H A D H A ' A M S T R E E T, T E L - A V I V .

1944



6. A candidate found guilty of dishonesty or collusion in an examination may immediately be expelled from the examination room and his examination paper may be cancelled.

Candidates having with them in the examination room any book or paper other than the examination answer book or any other book or paper authorised for use at the examination by the Law Council will be deemed to have been guilty of dishonesty in connection with the examination.

Candidates found guilty of dishonesty or collusion shall in addition to any action taken against them under this paragraph—

- (a) in the case of candidates sitting for the Palestine Law Examination, be liable to exclusion from any subsequent examination, and
- (b) in the case of students of the Jerusalem Classes, be liable to temporary or permanent expulsion from the Classes or to such other punishment as the Law Council may decide.

Alterations of conditions, see note to para. 5 and note 6 r. 20, *supra*.

The above Schedule is taken from the Fourth Schedule to the Regulations of the Jerusalem Law Classes, repealed by r. 40.

SIXTH SCHEDULE.

See r. 12, *supra*.

FORM OF UNDERTAKING TO BE GIVEN BY AN ADVOCATE TAKING A CLERK INTO SERVICE.

I, a practising advocate of three years standing licensed to practise in Palestine and having my office at hereby declare that I have taken Mr. into my employ as a clerk at my office at from the day of 19....., and in accordance with the provisions of the Law Council Ordinance, 1938, and the rules made thereunder.

I undertake that so long as the said Mr. remains in my service he shall be exclusively employed in the legal work of my office and under my supervision during every forenoon and afternoon (feast days excepted) up to 2 p. m. at least.

And I undertake to notify the Chairman of the Law Council, Jerusalem:

(1) If the said Mr. fails to attend at my said office regularly, and/or

(2) If the said Mr. leaves my service, and/or

(3) If I desire to terminate the service of the said Mr. I hereby undertake to notify the Chairman of the Law Council of the reasons for which I desire to effect such termination.

Date

.....
Signature of Advocate

Filed this day of 19

.....
Chairman of the Law Council.

FORM OF CERTIFICATE OF COMMENCEMENT OF SERVICE.

I, being a practising advocate of three years standing licensed to practise in Palestine, and qualified to act as principal to clerks under service, having my office at hereby give notice that I have taken of into my employ from the day of 19..... .

Date

.....
Signature of Advocate.

Registered on the

day of 19.....

.....
Chairman of the Law Council.

FORM OF CERTIFICATE OF COMPLETION OF SERVICE.

I, being a practising advocate of three years standing licensed to practise in Palestine, and qualified to act as principal to clerks under service, having my office at hereby declare that has been in my office from the day of 19....., to the day of 19....., and that during the whole of this period:

(1) he has, except when absent through illness duly certified by a registered medical practitioner, regularly attended at my office during ordinary office hours not being, except during the period of

any court vacation, less than six hours a day on five working days a week (feast days excepted);

The above sub-section was reenacted by r. 3 of the 1939 (No. 3) Amend. Rules.

(2) he has been exclusively employed in legal work therein;

(* (3) he has not to my knowledge been engaged in any other employment;

or

(* (3) he has to my knowledge engaged in other employment as follows:

The alternative in this item was enacted by r. 3 of the 1942 Amend. Rules.

(* (4) he has not been absent from my office for more than one month in all (excluding feast days)

or

(* (4) he has been absent from my office only for the following periods:

Date

Signature of Advocate.

(* Delete the paragraph which is not applicable.

Registered this day of 19.....

Chairman of the Law Council.

SEVENTH SCHEDULE.

See r. 21. *supra*.

LAW COUNCIL.

APPLICATION FOR ADMISSION TO THE LAW CLASSES.

Name:

Address:

Age:

Profession:

Education:

*References:

Signature:.....

(* The names of two persons who can testify to the good character of the applicant from personal knowledge must be given.

This application should be accompanied by educational certificates and by a passport or some other document showing that the applicant is legally resident in Palestine.

The above Schedule is taken from the First Schedule to the Regulations of the Jerusalem Law Classes repealed by r. 40.

EIGHTH SCHEDULE.

See rr. 21, 32, 36, *supra*.FEES PAYABLE BY CANDIDATES FOR ADMISSION TO THE LAW CLASSES
AND BY STUDENTS THEREOF.*Tuition Fee*

To be paid not later than the second
Monday in October — — — £P. 12.000 per session

Intermediate Examination

To be paid on or before the 1st July
of the year in which the examination
is held — — — — — £P. 6.000

Certificate Examination

To be paid on or before the 31st Aug-
ust of the year in which the examina-
tion is held — — — — — £P. 6.000

Diploma Examination

To be paid on or before the 31st July
of the year in which the examination
is held — — — — — £P. 6.000

Language Examination

To be paid on or before the 31st July
of the year in which the examination
is held. For each examination — — £P. 2.000

(The above item was amended by r. 3 of the 1938 Amend. Rules).

Other Examination Fees

(a) Where a student is required to
repeat his examination — — — The same fee as if he
were taking the exam-
ination for the first
time

(b) Where a student is permitted to
be re-examined in subject or subjects
in which he has previously failed — £P. 1.000 per subject

(c) Where a student is permitted to
take a special examination, whether
oral or written — — — — — An amount, to be de-

terminated by the Director, sufficient to cover the expenses to be incurred in holding the examination.

The above item was enacted by r. 4 of the 1939 (No. 3) Amend. Rules.

Translation Fee

Payable by candidates who obtained permission to answer examination questions in a language other than that in which the lectures were given £P. 0.600 per paper

The above item was amended by r. 4 of the 1944 Amend. Rules.

In the case of essays in Legal History £P. 0.600 per paper

Special Students

In separate subjects. Per subject — £P. 2.000

The Attorney-General may in special circumstances exempt any Government Officer from the payment of either the whole or part of the fee payable by such officer:

Provided that such officer shall not be allowed to take the diploma examination except upon payment of all the fees from the payment of which he was exempted during the whole of the period of his study under the Law Council.

The above Schedule is taken from the Sixth Schedule to the Regulations of the Jerusalem Law Classes, repealed by r. 40.

NINTH SCHEDULE.

Sec r. 23, *supra*.

PART I.

- (a) Civil Law (Mejelle)
- Criminal Law
- Jurisprudence
- English Law of Contracts
- Constitutional Law
- Land Law
- Law of Wakf
- Political Science.

- (b) Commercial Law
- Law of Evidence
- Private International Law
- Public International Law
- English Law of Torts
- Forensic Medicine
- Legal History

PART II.

- Practice and Procedure
- Ordinances of the Government of Palestine
- Legal Drafting
- Bookkeeping, particularly in relation to Trust Accounts.

OPTIONAL SUBJECT.

Religious Law.

The above Schedule is taken from the Second Schedule to the Regulations of the Jerusalem Law Classes, repealed by r. 40.

TENTH SCHEDULE.

PROGRAMME OF COURSES AT THE LAW CLASSES.

THE CIVIL LAW (MEJELLE).

FIRST YEAR.

I. INTRODUCTION.

1. Short history and sources of Moslem Law. What is the *Mejelle*: The differences between the *Mejelle* and a Civil Code.
2. The 99 legal maxims explained by examples out of the *Mejelle*.

II. General principles of the Law of Contract; Sale (Arts. 101-403).

III. Hire, general principles; Rent, Hire of Workmen, Carriers, Damages (Arts 404-611).

SECOND YEAR.

1. Suretyship (Arts. 612-672).
2. Transfer (Arts. 673-700).
3. Pledge (Arts. 701-761).
4. Deposit (Arts. 762-832).
5. Gifts (Arts. 833-880).
6. Forcible taking (*Ghasb*) and Destruction (Arts. 881-940).
7. Restraint, Compulsion, and Preemption (Arts. 941-1044).

8. Joint Ownership (Arts. 1045-1328).
9. Mandates (Arts. 1499-1531).
10. Settlement of Disputes (Arts. 1532-1571).

The intermediate examination will cover the whole course.

CRIMINAL LAW.

PART I.

I. INTRODUCTION :—

- (a) The nature of Penal Law. — Punishment as a Social Institution. — Punishment and the State.
- (b) Development of Criminal Law. — Early Criminal Law. — Blood-Money (Dya) — Mosaic Law. — Sheri Law.
- (c) The Criminal Code Ordinance, 1936, and other Palestine legislation in criminal matters — sources.

II. APPLICATION OF CRIMINAL LAW.

- (a) (1) Criminal Courts, Functions and Method.
- (2) Temporal Application of Criminal Law.
- (3) Territorial and Personal Application of Criminal Law.
- (b) (1) The Nature of an Offence, Classification. — Interests protected by Criminal Law. — Penal Law and Morality — Criminal Offence and Civil Wrong.
- (2) Causality.
- (3) Motive and Intention; Mental Responsibility; Ex-tenuating and Aggravating Circumstances.
- (4) Justification, Self-defence, Necessity, Order of the Law, Consent.
- (5) Attempt.
- (6) Plurality of Offenders.
- (7) Plurality of Offences.

III. PUNISHMENT.

- (1) Methods (Ancient and Modern).
Prison Organisation.
- (2) Theory of Punishment.
- (3) Juvenile Offenders — Reformatories — Probation;
Borstal Institutions, etc.
- (4) Recidivity and Habitual Offenders.
- (5) Prescription; Pardon.

The course will include an exact study of all relevant Palestine legislation.

PART II.

The course will include a critical study of the provisions of the law applied in Palestine as to the following offences:

1. Treason — Sedition.
2. Murder and Manslaughter.
3. Arson.
4. Theft — Obtaining Property by False Pretences. Criminal Conversion — Receiving Stolen Goods.
5. Rape, Indecent Assault, Procuration.
6. Forgery.
7. Bigamy and Marriage Offences.
8. Perjury.
9. Defamation.
10. Conspiracy.

JURISPRUDENCE.

The course will include an examination of the nature of law and the fundamental ideas underlying legal systems in general. It will be based upon Hibbert's Jurisprudence and upon Dr. Goadby's "Introduction to the Study of Law".

OUTLINE OF COURSE.

1. The Nature of Jurisprudence. Jurisprudence is the Formal Science of Positive Law. Examples of the Misuse of the Term "Jurisprudence".
2. Historical and Analytical Jurisprudence.
3. Meaning of the Term "Law" and Different Kinds of Law. Positive Morality. Law of Nature.
4. Origin of Law: The Evolution of Political Societies.
5. Contents and Arrangements of Codes.
6. Definitions of Jurisprudential Terms: Law. Command. Duty. Sanctions. Positive Law. Political Society. Independent Political Society. Sovereign. Subject. State. People. Forms of Sovereignty. Limits of Sovereignty. Whether Sovereign can have Legal Rights against his own Subjects.
7. The Sources of Law: Custom. Religion. Adjudication or Judicial Decisions. Scientific Decisions or Treatises. Equity. History of Equity in Roman and English Law: Points of Resemblance. Points of Difference. Legislation.

8. Rights: Definition of Right. Duty. Positive and Negative Duties. Relative and Absolute Duties.

9. Persons: Physical or Natural Persons. Legal or Fictitious Persons.

10. Things: Classes of Things.

11. Facts: Events and Acts. Juristic Acts.

12. Will: States of Mind. Intention. Ignorance or Mistake of Fact. Ignorance or Mistake of Law. Negligence. How far some State of Mind or Mental Attitude is necessary in addition to some Act or Forbearance to occasion some Legal Right or Wrong.

13. Rights as a Central Object in Jurisprudence. Analysis of Right. Classification of Rights: Rights in Rem and in Personam. Antecedent and Remedial Rights. Normal and Abnormal Rights. Public and Private Rights. The Radical or Chief Division: Holland's. Austin Dispositive Facts and their Classification. *Ex Damno Sine Injuria Non Oritur Actio*: Examples.

14. Normal Antecedent Rights in Rem: Rights to Personal Safety and Freedom. Rights to Control over Family and Dependants. Rights to Reputation. The Right not to be impeded in Performing all Lawful Acts. The Right not to be damaged by Fraud. Rights of Ownership. Servitude and Possession. Ownership: Definition. Objects of Ownership. Servitude: Definition. Roman Classification of Servitude. English Classification. *Maxims re Servitudes*. Possession. Elements of Possession. *Corpus and Animus*. Savigny's Theory as to *Animus*. Jhering's Theory. The Theory of English Law. Reasons for Protecting Possession. The Consequences of Possession. *Lien*. *Pledge*. Varieties of *Pledge* and *Mortgage*.

15. Normal Antecedent Rights in Personam: (a) *Ex-Lege*: Domestic Privileges. Fiduciary Relations. Meritorious Obligations. Official Obligations. (b) *Ex-Contractu*: Contract. Doctrine of *Estoppel*. Partnership. Insurance. Circumstances which terminate Rights in Personam. Remedial Rights. Extinction of Remedial Rights.

16. Civil Wrongs. Classification of Civil Wrongs. Distinction between Crimes and Civil Wrongs.

17. Abnormal Rights, Corporations, Infants, Married Women, Lunatics, Slaves.

18. Adjective Law or Procedure.

19. Public Law.

20. International Law.

21. The Application of Law.
22. Judiciary Law and Codification: Advantages and Disadvantages.

ENGLISH COMMON LAW.

I. CONTRACTS.

The course will include the English Law of Contracts excluding Bills of Exchange, Bills of Lading and other special contracts except Agency.

OUTLINE OF COURSE.

1. Nature of Contract.
2. Agreement. Requisites of Agreement.
3. Obligation. Requisites of Obligation. Its Sources.
4. Elements of a Valid Contract.
5. Unenforceable, Voidable and Void Contracts.
6. Offer and Acceptance.
7. Consideration.
8. Reality of Consent. Mistake. Representation: Conditions and Warranties. Innocent Misrepresentation. Wilful Misrepresentation or Fraud. Effect of Innocent Misrepresentation and Remedies therefor. Effect of Fraud and Remedies therefor. Non-disclosure. Contracts *Uberrimae fidei*. Duress. Undue Influence. Law Reform (Married Women and Tortfeasors) Act, 1935.
9. Capacity. Crown. Government Servants. Aliens. Alien Enemies. Convicts. Lunatics. Drunkards. Married Women. Married Woman contracting as Agent for her Husband. Infants. Corporations. Partnerships. Clubs. Trade Unions.
10. Form of Contract. Formal and Simple Contracts. Writing and Simple Contracts. The Doctrine of Part Performance.
11. Discharge of Contract: By Agreement, Performance, Impossibility, Breach, Operation of Law.
12. Remedies for Breach of Contract. Quantum Meruit. Damages. Specific Performance, Injunction.
13. Legality: Wagering and Gaming Contracts (in brief). Contracts Illegal at Common Law. Agreements in Restraint of Trade. Effect of Illegality.
14. The limits of Contractual Obligation.
15. Assignment of Contract.

16. Rules relating to Evidence.

17. Agency.

II. TORTS.

The course will include the English Law of Torts with special reference to the Workmen's Compensation Ordinance.

OUTLINE OF COURSE.

1. Nature of Tort. Relation of (a) Tort and Contract. (b) Tort and Crime.
2. The General Conditions of Liability. *Damnum Sine Injuria*. *Injuria Sine Damno*. *Mens Rea*. Wrongful Intent and Malice.
3. Capacity to sue and to be sued in Torts. Assignment of Rights of Action for Torts. The Death of the Parties.
4. Persons affected by Torts: Infants. Lunatics. Married Women. Crown. Judges. Government Officials. Public Authorities Protection Act, 1893. Foreign Sovereigns. States and Ambassadors. Trade Unions. Corporations.
5. Liability for Torts of others: Joint Wrongdoers. The Rule in *Merryweather v. Nixan*. Agency. Partners. Husband and Wife. Master and Servant. Common Employment. Employers Liability Act, 1880. Workmen's Compensation Ordinance.
6. Defamation.
7. Injurious Falsehoods. Slander of Goods. Slander of Title. Deceptive Trade-Names, Marks and Descriptions.
8. Trespass to Land. Trespass and Case Distinguished. The Nature of Trespass to Land. The Title of the Plaintiff. Trespass *ab initio*. Six Carpenters Case. Defences to an Action for Trespass: Leave and Licence. The Rule in *Wood and Leadbitter*. Prevention of Trespass. Re-entry on Land. Defence and Recaption of Chattels. Execution of Legal Process. Distress. Distress Damage Feasant. Abatement of Nuisances. Necessity. Accident. Trespass beneath the Surface. Trespass above the Surface. Remedies: Abatement. Ejectment. The Rule in *Asher v. Whitlock*. Action for Mesne Profits. Action for Damages.
9. Nuisance. Public Nuisance. Remedies for Public Nuisance. Nuisance to Highway. Absolute Liability for Danger to Highway. Private Nuisance. Who can sue for a Nuisance. Distinction between Nuisance and Trespass. Disturbance of Easements: Disturbance of: Right of Way, Right of Support, Right to Light, Right to Air, Right to Water. Ineffectual Defences to an Action for Nuisance. The Rule

in *Rylands v. Fletcher*. Exception to the Rule. Remedies for Nuisance. Defences. Liability for Fire. With whom does Liability for Nuisance lie.

10. Conversion and other Injuries to Chattels.

11. Injuries to the Person. Death. Fatal Accidents Act, 1846. Assault and Battery. Defences to an Action for Assault. The Right to recover Damages for Nervous Shock. False Imprisonment. Defences. Malicious Prosecution.

12. Negligence. The Duty of Care. The Standard of Measure of Care. Children and Negligence. Intervening Acts of Negligence. Proof of Negligence. *Res Ipsa Loquitur*. Defences to Negligence: Inevitable Accident. *Volenti Non Fit Injuria*. Common Employment. Contributory Negligence. The Rule in *Davies v. Mann*. *British Columbia Electric Railway Co. v. Loach*.

13. Liability of Occupiers for Dangerous State of Premises to those who come on them: Those entering in pursuance of a Contract. Invitees. Licensees. Trespassers. Liability of the Owner of the Premises.

14. Liability for Dangerous Chattels: Liability of Possessor to persons permitted or invited to make Use of them, Liability of him who delivers a Dangerous Chattel for Damage suffered by some Third Person. Liability for Animals. *Scienter*.

15. Injuries to Domestic Relations: Parent and Child. Master and Servant: Seduction. Other Injuries. Husband and Wife.

16. Deceit. Rule in *Derry v. Peek*. Exceptions to Rule in *Derry v. Peek*.

17. Conspiracy; Intimidation: of Plaintiff himself: of other Persons to the Injury of the Plaintiff. *Quinn v. Leatham*. Trade Disputes Act, 1906.

18. Maintenance.

19. Inducement of Breach of Contract.

20. The Breach of Statutory Duties.

21. Classes of Remedies for Torts: (a) Judicial Remedies. Damages: Kinds of Damages. Remoteness of Damage. In *Re Polemis and Furness, Withy and Co.* *Actus Interveniens* of Plaintiff. *Actus Interveniens* of Third Person. Successive Actions on same Facts. Injunctions. (b) Extra Judicial Remedies.

22. The Limitation of Actions.

23. Felonious Torts.

24. Foreign Torts.

25. Law Reform (Miscellaneous Provisions) Act, 1934. Law Reform (Married Women and Tortfeasors) Act, 1935.

CONSTITUTIONAL LAW.

OUTLINE OF SUBJECT.

PART I.

The Law and Custom of the English Constitution.

The Nature and Purpose of Constitutional Law. Laws and Conventions. Nature of Conventions of Constitution. Sanction by which they are enforced. Flexible and Rigid Constitutions. Federal Constitutions. Characteristics of a Perfect Federal System. Leading Features of the English Constitution. The Sovereignty of Parliament. Theoretical Omnipotence. Position of the Crown. Resolutions of either House of Parliament. Modern Executive. The Constituencies. Courts of Law. Actual Limitations on Sovereign Power. Internal Limits, External Limits. Effects of the Parliament Act, 1911. Provisions of the Act. Non-Sovereign Law-making Bodies. Subordinate Law-making Bodies. Independent but Non-Sovereign Legislative Bodies. The Rule of Law. Its Nature and General Applications. Right of Personal Freedom. Habeas Corpus. Freedom of Speech. Freedom of Press. Rights of Public Meeting. Police and Public Meeting. Martial Law. The Army. The Revenue. Parliament. House of Lords. House of Commons. Privileges of the House of Commons. Functions of Parliament. The Crown. Prerogative of the Crown. Ministers and the Prerogative. Ministerial Responsibility. Legal Remedies for Wrongful Act of the Crown and its Servants.

Classification and Form of English Law. Organisation of Civil and Criminal Courts in England.

PART II.

The Empire:

Composition of the British Empire. The United Kingdom. The Channel Islands. Isle of Man. The Self-Governing Dominions. The Colonial Laws Validity Act, 1865. The Imperial Conference of 1926. The Statute of Westminster, 1931. Constitutions of Self-Governing Dominions. Canada. Australia. South Africa. Irish Free State. Appeals from Dominions. Judicial Committee of Privy Council.

British India.

Crown Colonies. Their Classification (a) according to Cir-

cumstances under which they have been acquired, (b) according to their Degrees of Legislative Autonomy. Legislation in Colonies. Colonial Laws Validity Act, 1865. Constitutional Government in Crown Colonies. Colonial Governor. His Powers. His Civil Liability (a) in Contract (b) in Tort. His Criminal Liability. The Colonies and the Treaty-making Power. Appeals from the Colonies. Dependencies, Protectorates, Mandated Territories. Their Nature. Their Classification. Principles of the Mandate.

PART III.

The Mandate for Palestine and the Palestine Order in Council, 1922-35.

Powers and Obligations of the Mandatory. The Palestine Order in Council, 1922-35. Government of Palestine. The Executive. The High Commissioner in Council. Powers of High Commissioner. The Legislature. Constitution of the Legislature. Powers of the Legislature. The Urtas Springs Case. The Judiciary. Judicial System of Palestine. General Courts: Magistrates' Courts and their Jurisdiction. District Courts and their Jurisdiction. Court of Criminal Assize. The Supreme Court and its Jurisdiction. The Special Courts: Land Courts. Tribal Courts. The Religious Courts and their Jurisdiction. Condition of Foreigners in Palestine. Suspension of Capitulatory Regime. Meaning of "Foreigner". Suits of Personal Status affecting Foreigners.

Appeals from Supreme Court to Judicial Committee of Privy Council: In Civil Matters. In Criminal Matters. Law to be applied in Palestine. Organisation of the Defence in Palestine. Local Autonomy. Freedom of Conscience and Communal Organisation. Educational Autonomy. Official Languages and Holy Days. International Status of Palestine. Palestine Citizenship Order in Council, 1925-1931. National Status of the Inhabitants of Palestine. Diplomatic Protection of Palestine Citizens abroad. Application of Treaties and Conventions to Palestine. Holy Places. Equality of Treatment. Supervision of the Mandate by the League of Nations. Termination of the Mandate.

POLITICAL SCIENCE.

PART I.

INTRODUCTION.

Definition and scope of Political Science.

"Man as a social animal". The different arrangements men have made for their community life.

(a) Primitive Institutions.

(b) Patriarchal Institutions.

(c) Political Society.

Recent developments.

Classification of constitution. The classification given by Aristotle, how far does it apply to modern states?

Three important new constitutional ideas that are not noticed under Aristotle's classification: "Limited Monarchy". "Representative Institutions", and "Federal Institutions".

The new constitutions of post war Europe.

A proposed classification of modern states.

PART II.

The State.

Definition of terms already used in general sense (e. g. state, commonwealth, republic, government, political, people, race).

The origin of the state. Various theories.

The theory of sovereignty.

The essentials of a state: population, territory, unity, organisation, sovereignty.

The state and the individual.

Groups within the state: universities, churches, public utility corporations, local government minorities and majorities, party government, special representation.

The relation of the state to other states; the possibility and advisability of a common life and common organisation between states; the relation of great powers to lesser powers; Imperialism; Mandates; International guarantees; the League of Nations.

Groups of States: Colonies; Federal Institutions; the British Empire.

The functions of the state: legislative, executive, judicial.

PART III.

Government of Palestine.

The relation between Palestine and Great Britain; the constitution of the Government of Palestine; central and local government; military and civil administration.

LAND LAW .

1. Early Customary Land Tenures.
2. The preparation of the Daftar Khakani 940-960.
3. Hoojet Sharia and evidence of title prior to 1274.
4. Character and origin of Ottoman Land Code.
5. Categories of Land
 - (a) Eradi Mulk (Different kinds of)
 - (b) Eradi Miri.
6. Mustahaki Tabu and Mahlul Land; Mahlul Land.
7. General principles applicable to all classes of Miri Land.
8. Eradi Wakf (Different kinds of, Waqf Sahih, Takhsisat Wakfs, Ijara Wahida, Ijaratein, etc. Charitable Trusts).
9. Eradi Metroukeh (Different kinds of).
10. Eradi Mewat; Land (Mewat) Ordinance, and Articles 1051, 1052 and Chapters 5 and 6 of Title 4 of Book X of the Mejelle.
11. The Tabu Law, 1275.
12. The Law of Tabu Sanads, 1276.
13. Miscellaneous Legislation.
- 14.—(a) Leases of immovable property. Law of Leases of 25th Jamad Awal, 1299. Cultivators (Protection) Ordinance
- (b) Mortgages of immovable property, Law of Mortgage No. 1401 of 16 Rabi Tani, 1331, and Mortgage Law (Amendment) Ordinance.
15. Right of way and rights to water.
16. Inheritance of Miri Land; Law No. 69 of 3 Rabi Awal, 1931.
17. Inheritance of Mulk.
18. Musha'a Land; Law of partition of 14 Moharrem, 1332.
19. Law of Expropriation; Land (Acquisition for the Army and Air Force) Ordinance.
20. Town Planning and Town Planning Ordinance, 1936.
21. Legislation affecting Land passed since the Occupation. Jurisdiction of Land Courts and orders under Correction of Land Registers Ordinance, 1926.
22. Disposition of immovable property; Law of 5 Jamad Awal, 1341, No. 1435, and Land Transfer Ordinance.
23. Land Registry practice.
24. Land Settlement.

LAW OF WAKF.
THE RULES OF WAKF IN DETAIL.

COMMERCIAL LAW.

1. A critical study of the following Ordinances with special reference to the English law upon which they are based:—
 - (1) The Companies Ordinance.
 - (2) The Bills of Exchange Ordinance.
 - (3) The Partnership Ordinance.
 - (4) The Bankruptcy Ordinance, 1936.
2. The unrepealed articles of the Ottoman Commercial Code.
3. The nature and principal incidence of contracts of insurance, Charter-party, Bills of Lading, Carriage of Goods by Sea Ordinance.

EVIDENCE.

The course will include a study of the English Law of Evidence in criminal cases. The Palestine provisions embodying or modifying English rules (e. g. the Evidence Ordinance) will be specially studied.

OUTLINE OF COURSE.

1. Nature of Evidence.
2. Hearsay and Direct Evidence. Circumstantial Evidence. Real Evidence. Presumptions.
3. Judicial Notice.
4. Doctrines of Relevancy, Admissibility and Weight.
5. Special Rules of Exclusion.
 - (a) Statements made out of Court. Doctrine of the Res Gesta. Statements admissible as evidence of bodily or mental feelings. Complaints. Admissions and Confessions. Evidence against Conspirators. Statements in Public Documents. Declarations made in course of professional duties. Declaration against interest. Dying Declarations. Declarations as to Public or General Rights. Declarations as to pedigree.
 - (b) Similar facts — exceptions to their inadmissibility.
 - (c) Opinion Evidence.
 - (d) Evidence of Character

6. Written Proof.

Nature and Extent of Documentary Proof; the Best Evidence Rule; Evidence to affect Documents: Res Judicata. Evidence in former Trials.

7. Witnesses and their Examination.

Oath — Competency and Compellability; Evidence of Accused Persons; Examination in Chief; Cross Examination and Re-examination; Leading Questions; Impeaching Credit; Evidence of Contradictory Statements; Refreshing Memory; Privilege.

PRIVATE INTERNATIONAL LAW.

The course will include:

(1) The discussion of the nature of nationality and domicile and a critical study of the provisions of the Palestine Citizenship Order in Council, 1925.

(2) A special study of the jurisdiction of and conflicts between the various Courts of Personal Status, established in Palestine with special reference to the provisions of the Palestine Order in Council, 1922, the Succession Ordinance, and other relevant Ordinances.

(3) A summary account of the principal English doctrines relating to the conflict of laws.

The whole course will be based upon Dr. Goadby's *Inter-Religious Private Law in Palestine*, but will include references to later Palestine legislation. A study of leading English cases having bearing upon the matters included in the course will be undertaken.

OUTLINE OF THE COURSE.

1. Nature of Private International Law.
2. Nationality and Domicile.
3. Nationality as a basis of Law and Jurisdiction. The Capitulations, Survivals of the Capitulatory Regime in the Near East.
4. Religious Jurisdiction and protection in the Orient considered historically and with special reference to existing conditions in Palestine and Egypt. Conflicts of Law in cases of Personal Status. Courts of Conflict. Effect of Change of Religion. The Palestine Order in Council, 1922. The Succession Ordinance. Civil and Religious Courts (Jurisdiction) Ordinance. Charitable Trusts Ordinance, etc. Limits of territorial jurisdiction.

5. Recognition of Foreign Judgments.
6. Execution of Foreign Judgments in Palestine. Judgments (Reciprocal Enforcement) Ordinance. Judgments (Reciprocal Enforcement — Egypt) Ordinance.
- 7 Juridical Persons in Private International Law.
8. Winding-Up and Bankruptcy.
9. Transfer of Rights over movables and immovables in Private International Law.
10. Obligations in Private International Law. Contracts. Quasi-Contract. Torts. Special reference will be made to conflicts arising in connection with Bills and Notes.
11. Application of Laws of Procedure in Private International Law.

PUBLIC INTERNATIONAL LAW.

1. Historical Sketch. Natural Law and International Law. Sources of Modern International Law (Custom and Treaty). International Obligation. International Institutions. The Concert of Europe. The Hague Peace Conferences, 1899, and 1907.
2. The League of Nations. Its Constitution and Functions. The Permanent Court of International Justice. The Optional Clause. The International Labour Office. Other International Offices. Rights of Minority Nationalities.
3. The Mandate System. Origin and Principles of the Mandates. Differences between A, B, and C Mandates. Special provisions of the Palestine Mandate.
4. International Persons. Sovereign States. Semi-Sovereign States. Protectorates. Recognised Belligerents.
5. State Territory. Boundary Controversies and Agreements. Territorial Waters. State Succession.
6. International Rivers. International Canals. Neutralisation of Territories. International Communications. Rights in the open Seas.
7. Jurisdiction of States. Territorial Jurisdiction. Jurisdiction over Nationals. Immunities from Jurisdiction. Extradition.
8. Pacific relations between States. Representation. Diplomatic Persons. Consuls.
9. Treaties. Form and Method of Making. Modification of Treaty Provisions.

10. International Arbitration.

11. Laws and Customs of War, International Conventions and Customs, Rights of Belligerents against Enemy Property.

12. Law of Neutrality, Belligerent Rights, Contraband and Search, Blockade, Unneutral Service.

Special reference will be made to cases collected in Mr. Bentwich's "Leading Cases on International Law" and to English Prize cases.

FORENSIC MEDICINE.

Medical Evidence, Examination of the Dead. Medico-legal Post Mortem Examinations, Dying Declaration — Modes of Death, etc. Wounds, Gunshot injuries, Burns, Scalds, Medico-legal Examination of Wounds. — Suicidal, Homicidal, and Accidental Wounds — Examination of blood stains, seminal stains, Identity of the Living and the Dead, Asphyxia, Suffocation — Strangulation — Hanging — Drowning — Irrispiroth Cases (Carbon Monoxide, etc.) Pregnancy in relation to Legal Medicine — Criminal Abortion, Infanticide, Rape, Insanity in its medico-legal relations.

LEGAL HISTORY.

A special subject will be appointed each session by the Director.

RELIGIOUS LAW.

SHARIA LAW.

First Year.

Marriage.
Dowry.
Maintenance.
Divorce.
Succession.

Second Year.

Divorce.
Parentage.
Foundling children.
Guardianship.
Gifting.
Wills.
Procedure before the Sharia Courts.

CIVIL PROCEDURE.

Historical sketch of Civil Procedure. Ottoman Code of Civil Procedure: Origin and Sources. Civil Procedure Rules, 1938, and other Rules of Court.

Constitution and Jurisdiction of Civil Courts: Magistrates' Courts; District Courts; Land Courts; Supreme Court; Special Tribunal; Judicial Committee of the Privy Council; Land Settlement Courts; Jurisdiction in matter of Personal Status; Conflicts of Jurisdiction. Execution of Judgments of Religious Courts. Matters of Personal Status affecting Foreigners. Jurisdiction of Consuls. Limitation of Civil Courts. Competence.

Competence *ratione materiae* and *ratione personae*.

Parties to Suits. Non-Contentious proceedings.

Capacity of parties: Minors, Lunatics, Bankrupts — Partnerships — Deceased persons.

Certainty of parties. Special rules when Government is a party.

Law of Procedure (Amendment) Ordinance, 1934. Section 6.

Variation of parties at trial:—

Death of party.

Intervention:

Joinder of third party.

Summons — Service — Commencement of action — Pleadings.

Proof; Evidence:

(a) Oral evidence.

(b) Documentary evidence; Verification of handwriting and seals.

(c) Presumptions:

Admission of Defendant.

Oath.

Damages.

Joinder of third party:—

(a) Compulsory joinder on application of party.

(b) Compulsory joinder by order of Courts.

(c) Voluntary joinder.

Injunctions.

Judgment in defended cases.

Judgment by default.

Method of attacking judgments:

- (i) Opposition to judgments by default.
- (ii) Appeal.
- (iii) Third party opposition.
- (iv) Review.
- (v) Appeal to the Judicial Committee of the Privy Council.

Objection to Judge:

Prise a partie.

Conservatory attachment.

Execution.

Provisional execution.

CRIMINAL PROCEDURE.

Definition and objects of Criminal Procedure.

Organisation, Constitution and Jurisdiction of Criminal Courts in Palestine.

Complaints and Charges.

Arrest with and without Warrant — Powers possessed by Police and others.

Searches and Search Warrants.

Attachment of Property.

Proceedings with view to Committal.

Procedure on Preliminary Investigation.

Powers of Attorney-General.

Release on Bail.

Attendance of Witnesses.

Persons competent to give Evidence.

Change of Venue.

Enquiry in absence of Accused.

Information.

Procedure in Court of Trial.

Arraignment and Pleas — Hearings — Use of Depositions.

Evidence by Accused — Rights of Counsel.

The Civil Claimant — Procedure in respect of Civil Claims.

Plea of Insanity.

Judgment — Sentence — Execution.

Res Judicata.

Costs.

Stay of Proceedings.

Appeal by Accused and by Prosecution.

Pardon and Amnesty.

Trial of Officials.

Contempt of Court.

Jurisdiction of and Procedure in Magistrates' Courts and Municipal Courts.

Review.

Prescription.

Proceedings for Extradition.

Prevention of Crime Ordinances.

Coroners.

The course will include an exact study of all Palestine legislation, e. g. Criminal Procedure (Trial upon Information) Ordinance, Criminal Procedure (Arrest and Search) Ordinance, Contempt of Court Ordinance, Prevention of Crime Ordinances, Coroners Ordinance, Extradition Ordinance, etc.

The above Schedule was taken from the Fifth Schedule to the Regulations of the Jerusalem Law Classes, repealed by r. 40.

ORDERS IN FORCE:

1. Ord. of 23.11.38 P. G. No. 843 of 24.11.38. sup, 2, p. 1495.
2. Ord. in P. G. No. 1199 of 7.4.42, sup. p. 970.

NOTICE.

IN EXERCISE of the powers vested in him by section 3 of the Law Council Ordinance, 1938, the High Commissioner has been pleased to appoint the following persons to be respectively Chairman and members of the Law Council, with effect from the 21st November, 1938:—

Chairman: THE ATTORNEY GENERAL.

Members: THE DIRECTOR OF EDUCATION.

THE SOLICITOR GENERAL.

JUDGE O. PLUNKETT.

MR. JUSTICE G. FRUMKIN.

MR. JUSTICE F. KHAYAT.

MR. M. ELIASH.

MR. M. MUGHANNAM.

DR. M. SMOIRA.

THE CHIEF MAGISTRATE, Jerusalem.

MR. NORMAN DE MATTOS BENTWICH, O.B.E., M.C.

*(SHEIKH KHALIL EFF. EL-KHALDI)

*) Deleted.

OMAR EFF. BARGHUTHY.

MR. H. KANTOROVITCH.

SHEIKH HUSSAM EDDIN EFF. JARALLAH, M.B.E.

The last name was substituted for that of Sheikh Khalil Eff. El Khaldi by order of the High Commissioner (P. G. 1199 of 7.6.42, sup. 2, p. 970). The order reappoints the remaining members with retroactive effect from 21.11.41. But see note to sec. 3 of the Ord. *ante*, p. 209.

AGREEMENTS AND CONVENTIONS

See INTERNATIONAL AGREEMENTS AND CONVENTIONS.

AGRICULTURAL FERTILIZERS

INTRODUCTORY NOTE.

The following is the text of the "Objects and Reasons" annexed to the draft Ordinance:

"This Ordinance provides for the protection of agricultural fertilizers against adulteration, and has received the consideration and approval of the Agricultural Chemists Committee after consultation with representatives of the principal fertilizer companies in Palestine. The Ordinance is based upon the Cyprus Agricultural Fertilizers Law, No. 21 of 1922."

See also, on fertilizers, title *ANIMAL MANURE*.

On agriculture generally, see the following titles:

Animals,
Bees,
Citrus Fruit,
Crop Loans,
Crops Concealment,
Cultivators Protection,
Dangerous Drugs,
Drainage (Surface Water),
Fisheries,
Flooding and Soil Erosion,
Forests,
Game Preservation,
General Agricultural Council.
Locusts' Destruction,
Plant Protection,
Sand Drift,
Tobacco.

ENACTMENTS:

Agricultural Fertilizers Ord. 1938.

Agricultural Fertilizers Rules, 1938-39.

AGRICULTURAL FERTILIZERS ORDINANCE

No. 27 of 1938.

AN ORDINANCE TO PROVIDE FOR THE PROTECTION OF AGRICULTURAL
FERTILIZERS AGAINST ADULTERATION.

BE IT ENACTED by the High Commissioner for Palestine, with
the advice of the Advisory Council thereof:—

Short title.

1. This Ordinance may be cited as the Agricultural Fertilizers Ordinance, 1938.

PROMULGATION: En. 9.9.38; prom. P. G. 815 of 15.9.38; (notice p. 1053; ord. sup. 1, p. 83). Notice of confirmation: 7.11.38; P. G. 838 of 10.11.38, p. 1277. Draft dated 10.4.38 in P. G. 776 of 21.4.38, p. 427.

Interpretation.

2. In this Ordinance—

“Analyst” means the *Government Analyst* or his authorised assistant, or any person authorised by the High Commissioner to act as analyst for the purpose of this Ordinance; Compare sec. 7 of the Criminal Procedure (Evidence) Ord.

By the Public Officers (Change of Title) Ord., 1940, the title of Government Analyst is replaced by “Government Chemist”.

“Bag” means a bag or other receptacle capable of being sealed used for containing any fertilizer;

“Director” means the Director of the Department of Agriculture and Fisheries, and includes any officer lawfully acting in that capacity in the absence of the Director;

“Fertilizer” means any substance which is imported into or produced in Palestine for use in Palestine as a fertilizer of the soil, whether mixed with any other substance or not. For the purpose of this definition importation or production shall be presumed to be for use in Palestine until the contrary is proved;

The last sentence was not included in the draft.

“Sampler” means any Government officer authorised by the Director to act as sampler or inspector under this Ordinance;

“Sell” means sell by wholesale or retail, and in addition to its ordinary meaning shall include offer, advertise, expose

for sale or keep for sale, or barter or exchange or supply or dispose for any consideration, direct or indirect, or (for purposes of sale) import, transmit, consign, convey, deliver or prepare.

3.—(1) No person shall sell any fertilizer save in bags clearly and legibly bearing upon them such marks and sealed with such seal and in such manner as the High Commissioner may by rules prescribe:

Sale of
Fertilizer.

See rules, *post*.

Provided that in the case of the sale of any fertilizer wholesale, the Director may, by notice in writing under his hand and subject to such conditions as he may in such notice prescribe, permit such sale notwithstanding that the fertilizer is not contained in bags and is not sealed and marked as aforesaid.

(2) No person shall sell any fertilizer which is not of the nature, quality and composition declared on the invoice and marked on the bags as prescribed in rules made under this Ordinance, and no person shall sell any type of fertilizer which has not been registered with the Director in such manner as may be prescribed by rules.

(3) This section shall not apply to the sale of any fertilizer in respect of which special provisions have been prescribed by rules made under section 9 (*k*) of this Ordinance.

See second Schedule to rules, *post*.

4.—(1) The Analyst or a sampler may take a sample from any fertilizer for analysis. The Analyst or sampler may seal up or otherwise secure the whole or a part of the fertilizer from which the sample is taken pending the completion of the analysis of the sample, and the owner or person in possession of such fertilizer shall, subject as hereinafter provided, retain the same so sealed up or otherwise secured by the Analyst or sampler and shall not tamper with the fertilizer or any seal thereon.

Sampling.

(2) An analysis under this section shall be completed within thirty days. The owner or person in possession may after thirty

days of the taking of the sample for analysis, or before that time with the approval of the Director or of an officer authorised by him, sell or otherwise dispose of the fertilizer from which the sample was taken.

This sub-section appeared as a proviso to sub. sec. (1) in the draft.

(3) If any sampler discloses any information obtained by him in or in connection with the exercise of his powers under this Ordinance except (a) in a court of law or where otherwise required by law to do so, or (b) to the persons acting in the execution of this Ordinance in so far as such information may be necessary for the execution thereof, he shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

Sub sec. (2) in the draft. See note to sub. sec. (2), *supra*.

Penalty for tampering with bags or contents.

5. Any person tampering with any bag containing fertilizer or with any mark placed upon any bag or with any seal with which a bag is sealed or in any way mixing or altering any fertilizer in any bag shall be guilty of an offence and liable to imprisonment for a period not exceeding six months or to a fine not exceeding one hundred pounds or both such penalties, and any bag and any fertilizer contained therein in respect of which the offence has been committed shall be liable to be confiscated, or may be re-conditioned and sold in such manner as may be prescribed by rules.

Purchaser may obtain certificate of analysis from Analyst.

6. Any purchaser of any fertilizer shall be entitled, on the payment of the prescribed fee, to have it analysed by the Analyst, and to receive from him a certificate of the result of his analysis, in the form set forth in the schedule hereto or in a form to the like effect.

Certificate to be prima facie evidence of facts stated.

7. At the hearing of any charge of an offence under this Ordinance or any rules made thereunder the production of the certificate of the Analyst shall be sufficient evidence of the facts therein stated, unless the person charged shall require that the Analyst shall be called as a witness, in which case seven days notice shall be given to the Analyst.

8. Any person committing a breach of or failing to comply with the provisions of this Ordinance or of any rules made thereunder for which no penalty is prescribed, or obstructing any official carrying into effect this Ordinance or any rules made thereunder shall be guilty of an offence and liable to a fine not exceeding one hundred pounds, and any bag or fertilizer in respect of which the offence has been committed shall be liable to be confiscated, or may be re-conditioned and sold in such manner as may be prescribed by rules.

Penalty
for breach.

9. The High Commissioner may make rules prescribing —
- (a) the manner in which fertilizers and bags shall be registered with the Director, including the marks to be placed upon the bags and the seals to be used;
 - (b) the manner in which fertilizers shall be presented for sale;
 - (c) the manner in which samples shall be taken;
 - (d) the methods of analysis to be adopted in prescribed cases, and the terms in which results shall be expressed;
 - (e) the invoices and declarations to be produced by the seller of a fertilizer;
 - (f) the acceptance of certificates of analysis from the country of origin and approved laboratories, with or without checked analysis as action demands;
 - (g) the manner and times in which fertilizers may be placed in bags and re-conditioned;
 - (h) the limits of variation of ingredients of fertilizers;
 - (i) the kind of bags in which fertilizers may be sold;
 - (j) the fees to be paid in respect of any matter or thing prescribed by this Ordinance or any rules made thereunder;
 - (k) special provisions in respect of specified fertilizers;
 - (l) generally for the carrying into effect of the provisions of this Ordinance.

Rules.

See rules, *post*.

SCHEDULE.
FORM OF CERTIFICATE.

To

....., the undersigned, do hereby certify that I received on the day of 19....., from, a sample labelled for analysis and I have analysed the same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine
or

I am of opinion that the said sample contained the part as under, or the percentages of foreign ingredients as under:

OBSERVATIONS.

As witness my hand this day of at

HAROLD MACMICHAEL

gth September, 1938.

High Commissioner.

RULES MADE BY THE HIGH COMMISSIONER UNDER
SECTION 9.

RULES IN FORCE.

Agricultural Fertilizers Rules, 1938, dated 16.9.38; P. G. 817 of 22.9.38, sup. 2, p. 1248.

1939 Amendment Rules, dated 4.1.39; P. G. 856 of 12.1.39, sup. 2, p. 15.

1939 Amendment (No. 2) Rules, dated 11.8.39; P. G. 911 of 17.8.39, sup. 2, p. 622.

1939 Amendment (No. 3) Rules, dated 31.10.39; P. G. 962 of 9.11.39, sup. 2, p. 1257.

Citation.

1. These rules may be cited as the Agricultural Fertilizers Rules, 1938-9.

The amending rules are incorporated in the text.

Registration.

2.—(1) Every importer and local manufacturer of fertilizers shall make application to the Director for registration of all brands of fertilizer which he proposes to sell.

(2) The form of application and of the certificate of regis-

tration shall be that set out in the First Schedule to these rules. Duplicate samples of not less than 250 grammes in each sample shall accompany each application, together with a registration fee of one pound.

(3) The Director may demand any particulars he may require in addition to those required on the said application form. If registration is approved by the Director a certificate of registration shall be issued to the applicant. If registration is refused the applicant shall be notified in writing of the reasons for refusal.

3. Certificates of registration shall expire on the 31st December after the date of issue thereof and shall be renewable annually at the discretion of the Director on payment of a fee of one pound. Application for renewal shall be made at least ten days before the date of the expiry of the certificate.

Validity of certificates of registration and renewal thereof.

4.—(1) There shall be placed upon every package containing a fertilizer the following marks in clear, legible and durable script, that is to say:—

Marking .

(a) The name and address of the importer or local manufacturer and the name of the country of manufacture, provided that instead of the name and address the Director may approve the use of trade marks or business names or both which have been registered with the Registrar of Trade Marks or the Registrar of Patents and Designs.

(b) The name of the brand and the number of the certificate of registration under these rules.

(c) The proportion percentum by weight of any of the following ingredients:—

(i) Nitrogen expressed as N.

(ii) Phosphoric acid expressed as P_2O_5 giving both the total and the water soluble proportion percentum.

(iii) Potash expressed as K_2O .

(2) All markings prescribed in this rule shall be on the same side of the package or label.

5. The Director shall cause to be published in the *Gazette*:—

Publication of certain particulars in the *Gazette*.

(a) within one month of the issue of a certificate of registration in respect of any fertilizer, a notification of such registration setting out the name of the manufacturer or importer and brand, the chemical composition of the fer-

tilizer and such other particulars as the Director shall consider necessary;

(b) before the 1st of February in every year a return showing the particulars mentioned in paragraph (a) hereof in respect of all registered fertilizers as on the 1st January in such year.

Repacking.

6. When repacking of a fertilizer is necessary this shall be done by a person authorised by the manufacturer or importer or by the Director, to mark and seal the bags in the manner prescribed in these rules.

Invoices.

7. Any importer or manufacturer or dealer who sells any fertilizer shall provide the purchaser with an invoice showing the quantity sold, the name and brand, and the registered number of the percentage of ingredients as declared in the certificate of registration:

Provided that where it can be shown that it is impracticable for the person issuing the invoice to include the percentages of ingredients they may be omitted:

Provided further that every dealer shall keep on his business premises copies of the certificate of registration which shall be open to inspection by any purchaser or authorised Government officer.

Seals.

8. Every bag containing any fertilizer shall bear the manufacturer's or importer's seal or seals secured in such a way that the seal must be broken before the bags can be opened in the normal way. The seals shall bear the same inscription as appears in the certificate of registration of such fertilizer.

Power of entry.

9. Any Analyst or Sampler may at all reasonable times enter and inspect any premises or vehicle in which any fertilizer is kept or suspected of being kept for sale or in transit for sale, or in which fertilizers are being manufactured or packed.

Sampling.

10.—(1) Any Analyst or Sampler may take samples of any fertilizer or ingredients found upon inspection of any premises or vehicle under the preceding rule:

Provided that the sample shall be taken in the presence of the seller and, if possible, a credible witness, and in their presence divided into three portions, one of which shall be sent to the Government Laboratory for analysis, the second of which shall be kept by the seller, or his representative or employee, and the third of

which shall be retained in the District Office of the Department of Agriculture and Fisheries or such other place, as the Director shall prescribe.

(2) Each sample taken as aforesaid shall be placed in a suitable glass container on which shall be affixed a label bearing —

- (a) the name, brand and registered number of the fertilizer,
- (b) the name and signature of the seller,
- (c) the name and signature of any witness,
- (d) the signature of the officer sampling,
- (e) the date and place of sampling.

(3) The samples shall, in the presence of the seller or his representative or employee, be sealed with wax impressed with a Government seal or the seller's seal or thumb print.

The officer shall at the time of sampling notify the seller of his intention to have the fertilizer analysed in accordance with the provisions of the Ordinance and these rules.

(4) Where official samples are taken in accordance with the provisions of this rule, no fees shall be charged for sampling or analysis.

11.—(1) Any seller or purchaser of a fertilizer may make application to an Analyst or Sampler to have samples taken and analysed in the manner prescribed in rule 10.

Applications for sampling and analysis and fees.

(2) A fee of 250 mils for the determination of the percentage of each ingredient shall be charged for such analysis and paid for by the applicant:

Provided that if the Director considers it to be in the public interest to do so he may direct in writing that the analysis be done without payment.

12.—(1) When a fertilizer is delivered in packages the number to be selected for sampling shall be as follows :—

Number of packages to be sampled.

<i>Quantity in Consignment</i>	<i>Number of bags to be selected</i>
Not exceeding one ton	Not less than two.
Exceeding one ton, not exceeding two tons	Not less than four.
Exceeding two tons, not exceeding three tons	Not less than six.
Exceeding three tons; for each ton over and above three tons	One additional bag, provided that in no case need more than fifteen bags be selected.

tilizer and such other particulars as the Director shall consider necessary;

(b) before the 1st of February in every year a return showing the particulars mentioned in paragraph (a) hereof in respect of all registered fertilizers as on the 1st January in such year.

Repacking.

6. When repacking of a fertilizer is necessary this shall be done by a person authorised by the manufacturer or importer or by the Director, to mark and seal the bags in the manner prescribed in these rules.

Invoices.

7. Any importer or manufacturer or dealer who sells any fertilizer shall provide the purchaser with an invoice showing the quantity sold, the name and brand, and the registered number of the percentage of ingredients as declared in the certificate of registration:

Provided that where it can be shown that it is impracticable for the person issuing the invoice to include the percentages of ingredients they may be omitted:

Provided further that every dealer shall keep on his business premises copies of the certificate of registration which shall be open to inspection by any purchaser or authorised Government officer.

Seals.

8. Every bag containing any fertilizer shall bear the manufacturer's or importer's seal or seals secured in such a way that the seal must be broken before the bags can be opened in the normal way. The seals shall bear the same inscription as appears in the certificate of registration of such fertilizer.

Power of entry.

9. Any Analyst or Sampler may at all reasonable times enter and inspect any premises or vehicle in which any fertilizer is kept or suspected of being kept for sale or in transit for sale, or in which fertilizers are being manufactured or packed.

Sampling.

10.—(1) Any Analyst or Sampler may take samples of any fertilizer or ingredients found upon inspection of any premises or vehicle under the preceding rule:

Provided that the sample shall be taken in the presence of the seller and, if possible, a credible witness, and in their presence divided into three portions, one of which shall be sent to the Government Laboratory for analysis, the second of which shall be kept by the seller, or his representative or employee, and the third of

which shall be retained in the District Office of the Department of Agriculture and Fisheries or such other place, as the Director shall prescribe.

(2) Each sample taken as aforesaid shall be placed in a suitable glass container on which shall be affixed a label bearing —

- (a) the name, brand and registered number of the fertilizer,
- (b) the name and signature of the seller,
- (c) the name and signature of any witness,
- (d) the signature of the officer sampling,
- (e) the date and place of sampling.

(3) The samples shall, in the presence of the seller or his representative or employee, be sealed with wax impressed with a Government seal or the seller's seal or thumb print.

The officer shall at the time of sampling notify the seller of his intention to have the fertilizer analysed in accordance with the provisions of the Ordinance and these rules.

(4) Where official samples are taken in accordance with the provisions of this rule, no fees shall be charged for sampling or analysis.

11.—(1) Any seller or purchaser of a fertilizer may make application to an Analyst or Sampler to have samples taken and analysed in the manner prescribed in rule 10.

Applications for sampling and analysis and fees.

(2) A fee of 250 mils for the determination of the percentage of each ingredient shall be charged for such analysis and paid for by the applicant:

Provided that if the Director considers it to be in the public interest to do so he may direct in writing that the analysis be done without payment.

12.—(1) When a fertilizer is delivered in packages the number to be selected for sampling shall be as follows :—

Number of packages to be sampled.

<i>Quantity in Consignment</i>	<i>Number of bags to be selected</i>
Not exceeding one ton	Not less than two.
Exceeding one ton, not exceeding two tons	Not less than four.
Exceeding two tons, not exceeding three tons	Not less than six.
Exceeding three tons; for each ton over and above three tons	One additional bag, provided that in no case need more than fifteen bags be selected.

(2) The selection shall be made from different parts of the whole consignment.

Use of sampling tool.

13. When the nature of the fertilizer and of the bags permits, the sample shall be taken with an approved form of sampling tool. The sampling tool shall be pressed into the bags to the whole length of the tube. The several quantities thus taken from the selected bags shall be thoroughly mixed together and a sample of about two kilogrammes shall be taken from the mixture. Each of the three portions into which every sample must be divided should not normally be less than 250 grammes.

Sampling from consignment delivered in bulk.

14. When a fertilizer is delivered in bulk a proportion shall be taken from different parts of the whole consignment and thoroughly mixed together and a sample of about two kilogrammes shall be taken from the mixture for further sampling into three portions. When considered necessary samples representing individual bags may be taken.

Number of consignments to be sampled and certificates of analysis.

15. The number of consignments sampled shall be limited at the discretion of the Director to the minimum compatible with the efficient application of control. Certificates of analysis from local or foreign laboratories may be demanded and accepted by the Director at his discretion.

Analyst's report.

16. The original of the analyst's report on the samples taken under the provisions of these rules shall be sent to the District Office of the Department of Agriculture and Fisheries from which the sample was despatched and signed copies shall be sent to the Director and to the seller or owner of the fertilizer.

Limits of variation of ingredients.

17. Unless otherwise specified in these rules samples of fertilizers taken under the provisions of the Ordinance and these rules shall be deemed to be sufficiently in accordance with the registered composition if the actual percentages found are not more than one unit below those stated in the invoice, labels and certificates of registration.

Power of Director to require analysis in certain cases.

18. Any manufacturer, importer, or dealer who holds a stock of fertilizer for more than one year shall notify the Director who may require the production of a certificate of analysis or direct that an official analysis be made.

Special provisions in respect of certain fertilizers.

19. The provisions of rule 1 to 18 inclusive of these rules shall not apply to the fertilizers set out in the Second Schedule to these rules.

THE FIRST SCHEDULE (Rule 2(2))

(As enacted by the 1939 rules, replacing the former Schedule).

FORM OF APPLICATION FOR THE REGISTRATION OF A FERTILIZER.

(To be rendered in duplicate).

Director of Agriculture and Fisheries,
Jerusalem.

I/We hereby apply for the registration under Rule 2 of the Agricultural Fertilizers Rules, 1938, of the fertilizer, particulars of which are given below: —

- (1) Name of applicant
- (2) Address
- (3) Whether applicant is local manufacturer, importer or owner
- (4) Name under which fertilizer is to be sold
- (5) Brand of fertilizer
- (6) Composition of fertilizer:—

	<i>Percentum by weight</i>
(a) Phosphoric oxide (P_2O_5) soluble in water	
(b) Phosphoric oxide (P_2O_5) soluble in a two-percentum citric acid solution (minimum)	
(c) Total phosphoric oxide (P_2O_5) (minimum)	
(d) Nitrogen (N) (minimum)	
(e) Potash (K_2O) (minimum)	
(f) Lime (CaO) *	
(g) Iron oxide (Fe_2O_3) and Alumina (Al_2O_3) (maximum)**	

- (7) Material or materials of which the fertilizer is composed.....
- (8) Inscription on seal or seals
(The above item was inserted by the 1939 (No. 3) Rules).

Duplicate samples of not less than 250 grammes in each sample are enclosed together with the registration fee of £P.1.

Date

.....
Signature of applicant

* To be filled in only in the case of bone-meal, bone-dust, bone-flour and raw phosphate rock.

**To be filled in in the case of raw phosphate rock.

FOR OFFICIAL USE.
Approved/Not approved.

.....
Director of Agriculture and Fisheries.

Registration No.
No. of Certificate issued
Date of issue
Copy of Certificate passed to Chief
Secretary for publication in the
Palestine Gazette, vide letter No.....
of

FORM OF CERTIFICATE OF REGISTRATION UNDER THE AGRICULTURAL
FERTILIZERS ORDINANCE, 1938.

I hereby certify that the fertilizer, particulars of which are given hereunder, has been duly registered by me for sale in Palestine in pursuance of an application for registration submitted by of in his/their capacity as* of the said fertilizer.

Particulars of Registered Fertilizer.

- (1) Name under which the fertilizer is to be sold
.....
(2) Brand of fertilizer
.....
(3) Composition of the fertilizer:—

	<i>Percentum by weight (in words)</i>
(a) Phosphoric oxide (P_2O_5) soluble in water	
(b) Phosphoric oxide (P_2O_5) soluble in a two-percentum citric acid solution (minimum)	
(c) Total phosphoric oxide (P_2O_5) (minimum)	
(d) Nitrogen (N) (minimum)	
(e) Potash (K_2O) (minimum)	
(f) Lime (CaO) **	
(g) Iron oxide (Fe_2O_3) and Alumina (Al_2O_3) (maximum)***	

*Local manufacturer, importer or owner.

**To be filled in only in the case of bone-meal, bone-dust, bone-flour, and raw phosphate rock.

***To be filled in in the case of raw phosphate rock.

(4) Material or materials of which the fertilizer is composed:

.....

.....

.....

(5) Inscription on seal or seals

(The above item was inserted by the 1939 (No. 2) Rules).

Registration No.

This certificate expires on the 31st December, 19..... .

Fee paid: £P.I.

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

.....
Director of Agriculture and Fisheries.
(Seal)

THE SECOND SCHEDULE. (Rule 19).

- Guano
- Huminol
- Poudrette
- Peat Moss
- Bone Dust
- Bone Meal
- Fish Meal
- Dried Blood
- Baladi Zibl
- Farmyard Manure
- Town Refuse
- Vegetable and Animal Composts.

AIN FARA SPRING

INTRODUCTORY NOTE.

The Ain Fara Spring was utilised by the Municipal Council of Jerusalem for water supply prior to the establishment of the present source of supply at Ras el Ain.

It was subsequently found necessary to use the Ain Fara Spring as a source of water supply to Ramallah and El Bireh and to provide for the operation of the supply by a company under agreement with the Jerusalem Municipal Council.

The ownership of that spring was undetermined and the Ordinance was enacted to provide legislative authority to the licensee of the Municipal Council to operate the supply, erect machinery etc., while ensuring that the needs of the neighbouring inhabitants for water was met.

The above particulars are taken from the Objects and Reasons annexed to the draft.

See also Urtas Springs.

ENACTMENTS:

Ain Fara Spring Ord., No. 14 of 1941.

AIN FARA SPRING ORDINANCE.

No. 14 of 1941.

AN ORDINANCE TO ENABLE THE MUNICIPAL CORPORATION OF JERUSALEM TO LICENSE THE USE OF WATER OF AIN FARA SPRING FOR THE OPERATION OF A WATER SUPPLY SYSTEM.

Short title.

1. This Ordinance may be cited as the Ain Fara Spring Ordinance, 1941.

PROMULGATION:

En. 10.5.41; P. G. 1097 of 10.5.41; (notice p. 439; Ord. sup, 1, p. 38). Draft of 3.3.41, P. G. 1081 of 6.3.41, p. 201. Notice of confirmation of 13.12.41, P. G. 1154 of 18.12.41, p. 1295.

Interpretation.

2. In this Ordinance the term:—

“Ain Fara Spring” or “Spring” means the spring situated

in the lands adjacent to the villages of 'Anata Hizma and Jaba'.

"Area" means that area of the Jerusalem District lying north of the Jerusalem — Jericho Road and east of the Jerusalem—Nebi Samuel Road.

"Council" means the Municipal Council of Jerusalem.

3. The High Commissioner may by order authorise the Council to license to any person and for any period named in such order the use of the water arising from Ain Fara Spring for the purpose of providing water supply within the Area:

High Commissioner may authorise Council to license the use of the water of Ain Fara Spring.

Provided that the Council shall in any such licence ensure that there shall be available from the Spring sufficient water for the daily needs of the inhabitants of the neighbourhood of the Spring, and such other persons as have habitually used the water of the Spring, for drinking and other domestic purposes and for animals, as well as for the irrigation of lands belonging to such inhabitants which at the date of such order are irrigated and planted with trees or other permanent plantations.

4. (1) If an order is made and a licence is granted under the preceding section any such licensee shall forthwith be entitled within the Area to enter upon land in private ownership for the purpose of erecting at or near the Ain Fara Spring a pumping engine and such other machinery and to lay pipelines therefrom and to do such other work as may be necessary for the purpose of establishing and maintaining within the Area a water supply from the Spring:

A licensee may enter and erect works upon land privately owned.

Provided that any such licensee shall pay to the owner of such land compensation for any direct loss or damage suffered by him as a result of the entry upon his land for the purpose of erecting such works or laying such pipelines as aforesaid.

(2) In order to ensure the purity of the water to be taken from the Spring, a licensee shall, subject to the provisions of section 3, be entitled to prevent access by the public to the Spring, and for this purpose enclose the Spring with a fence or take such other

steps as may be necessary for such purpose; and any person who shall unlawfully enter such enclosure shall be guilty of an offence and be liable to a fine of one hundred pounds or to imprisonment for three months or to both such penalties.

Compensation
for destruction
of annual plants
or crops.

5. — (1) If any inhabitant of the neighbourhood of the Spring suffers loss by reason of the destruction or damage to annual plants or crops owned by him which are planted on land which at the date of any order made under section 3 is irrigated by water from the said Spring, owing to the supply of water to such plants or crops ceasing or being diminished as a result of a licensee taking water in virtue of such order, such licensee shall pay to such inhabitant compensation for the loss so suffered.

(2) A licensee shall also pay compensation to any inhabitant of the neighbourhood of the Spring who suffers loss by reason of his being prevented from planting annual plants or crops on land which at the date of any order made under section 3 is cultivated and irrigated by water from the said Spring, owing to the supply of water to such land ceasing or being diminished to an extent sufficient to prevent the cultivation of such plants or other crops as a result of such licensee taking water in virtue of such order:

Provided that no compensation shall be payable to any person under the provisions of subsection (2) of this section if he has already received from the Council compensation for loss by reason of his being prevented from planting annual plants or crops on the said land.

Determination
of disputes.

6. — (1) If any dispute shall arise between a licensee and any inhabitant of the neighbourhood of the Spring regarding the amount of water made available for such inhabitant for any of the purposes provided for in section 3 or as to the amount of compensation payable to him under section 4 or 5, such dispute shall be referred to a single arbitrator appointed by the District Commissioner, Jerusalem District, and the award of such arbitrator shall be final.

(2) In any dispute which may arise as to the amount of water made available by a licensee for any purposes specified in

section 3, the arbitrator shall not award compensation in the form of a money payment but shall make an award determining the specific quantity of water which a licensee is to make available for the use of the inhabitants.

Cf. P. C. 98/25⁽¹⁾ mentioned in the notes to URTAS SPRING ORDINANCE.

HAROLD MACMICHAEL
High Commissioner

10th May, 1941.

⁽¹⁾ 1, P. L. R. 71; 5, R. 1818.

A I R

INTRODUCTORY NOTE.

AIR NAVIGATION:

The Air Navigation Act 1920, was enacted to give effect to the Paris Convention of 1919, and was applied to Palestine by a series of Orders in Council. The Act was amended in 1936, and further Orders in Council applied certain provisions of the amending Act. Local Regulations were made by the High Commissioner under powers conferred by the Orders in Council.

CUSTOMS:

A number of the Regulations enacted by the High Commissioner make provisions regarding customs in relation to air navigation.

See also title CUSTOMS.

CARRIAGE BY AIR:

In 1932 the Carriage by Air Act was enacted to give effect to the Warsaw Convention of 1929, for the unification of certain rules relating to international carriage by air. The Act was applied to Palestine by Order in Council, with effect as from 1935.

For carriage by land, see the Ottoman Commercial Code. For carriage by sea, see the Carriage by Sea Ordinance, post.

PRIZE:

For legislation on prize, relating to air, see title PRIZE, post.

ENACTMENTS:

a) AIR NAVIGATION:

The Air Navigation Act, 1920.

The Air Navigation Act, 1936. (In parts.)

The Air Navigation (Colonies, Protectorates and Mandated Territories) Order, 1927.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1929.

The Wei-Hai-Wei Order.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1931.

The Cameroons under British Mandate Order, 1932.

The Togoland under British Mandate Order, 1932.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1932.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1935.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1936.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1937.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) (No. 2) Order, 1937.

The Air Navigation (Aden) Order, 1938.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1938.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) (No. 2.) Order, 1938.

The Air Navigation (Colonies, Protectorates and Mandated Territories) (Amendment) Order, 1939.

(All the above Orders are consolidated.)

b) REGULATIONS RELATING TO AIR NAVIGATION:

Customs (Air Navigation) Regulations, 1933.

Air Navigation (Fees) Regulations, 1940.

Customs Aerodromes Regulations, 1942.

c) APPLICATION OF ACTS:

The Colonial Air Navigation (Application of Acts) Order, 1937.

The Colonial Air Navigation (Application of Acts) (Amendment) Order, 1937.

d) ORDERS OF THE HIGH COMMISSIONER:

Air Navigation (Restriction on Flying by Civil Aircraft) Orders, 1939-40.

Order dated 18th June, 1941.

c) *CARRIAGE BY AIR:**Carriage by Air Act, 1932.**Carriage by Air (Colonies, Protectorates and Mandated Territories) Order, 1934.**Carriage by Air (Colonies, Protectorates and Mandated Territories) (Date of Coming into Force of Convention) Order, 1935.**Carriage by Air (Parties to Convention) (No. 2) Order, 1938.*AIR NAVIGATION ACT, 1920⁽¹⁾.

10 and 11 Geo. 5, c. 80.

AN ACT TO ENABLE EFFECT TO BE GIVEN TO A CONVENTION FOR REGULATING AIR NAVIGATION, AND TO MAKE FURTHER PROVISION FOR THE CONTROL AND REGULATION OF AVIATION.

(23rd December, 1920.)

This Act does not apply in its entirety to Palestine. For the sections applicable see Schedule to Application of Acts Order, *post*. See also notes thereto. The Act was set out at length in Drayton vol. III. and is given here as amended by the 1936 Act.

Whereas the full and absolute sovereignty and rightful jurisdiction of His Majesty extends, and has always extended, over the air superincumbent on all parts of His Majesty's dominions and the territorial waters adjacent thereto:

And whereas a Convention (in this Act referred to as "the Convention") for determining by a common agreement certain uniform rules with respect to international air navigation, was signed on behalf of His Majesty in Paris on the thirteenth day of October, nineteen hundred and nineteen, and has been presented to Parliament:

And whereas it is expedient to make further provision for controlling and regulating the navigation of aircraft, whether British or foreign, within the limits of His Majesty's jurisdiction as aforesaid and, in the case of British aircraft, for regulating the navigation thereof both within such jurisdiction and elsewhere:

And whereas it is also expedient that provision should be made by Parliament for enabling effect to be given to the Convention:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

(1) As amended by the 1936 Act.

PART I. — POWER TO APPLY CONVENTION.

1. His Majesty may make such Orders in Council as appear to him necessary or expedient for carrying out the Convention and for giving effect thereto or to any of the provisions thereof, or to any amendment which may be made under article thirty four thereof⁽²⁾.

Power to give effect to Convention

2. His Majesty may, by Order in Council, direct that the provisions of the Convention for the time being in force, or any of them, and whether or not those provisions are limited to aircraft of any special description, or engaged in any special kind of navigation, shall apply to or in relation to any aircraft in or over the United Kingdom or the territorial waters adjacent thereto⁽²⁾.

Power to apply Convention to internal flying.

3. Without prejudice to the generality of the powers hereinbefore conferred, an Order in Council under this Part of this Act may make provision—

Special provisions which may be made by Order in Council.

- (a) prescribing the authority by which any of the powers exercisable under the Convention by a contracting State, or by any authority therein, are to be exercised in the United Kingdom⁽²⁾;
- (b) for the licensing, inspection, and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting the work therein carried on, for prohibiting or regulating the use of unlicensed aerodromes, and for the licensing of personnel employed at aerodromes in the inspection of supervision of aircraft;
- (c) as to the manner and conditions of the issue and renewal of any certificate or licence required by the Order or by the Convention, including the examinations and tests to be undergone, and the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate or licence;
- (d) as to the registration of aircraft in the United Kingdom⁽³⁾;
- (e) as to the conditions under which aircraft may be used for carrying goods and passengers⁽²⁾;
- (f) as to the conditions under which aircraft may pass, or goods or passengers may be conveyed by aircraft, into

⁽²⁾ As amended by the 1936 Act.

⁽³⁾ Re-enacted by the 1936 Act.

- or from the United Kingdom, or from one part of the United Kingdom to another⁽³⁾ ;
- (g) exempting from the provisions of the Order or of the Convention, or any of them, aircraft flown for experimental purposes, or any other aircraft or persons where it appears unnecessary that the same should apply ;
- (h) prescribing the scales of charges at licensed aerodromes ;
- (i) prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the grant of any certificate or licence or otherwise for the purposes of the Order or the Convention ;
- (j) supplementing the Convention, in such manner as appears necessary or expedient, by regulations designed to promote the safety of aircraft and of persons and property⁽²⁾ ;
- (k) for the control and regulation of aerial lighthouses, and lights at or in the neighbourhood of aerodromes and aerial lighthouses and lights which are liable to endanger aircraft⁽²⁾ ;
- (l) regulating the making of signals and other communications by or to aircraft and persons carried therein, and regulating the use of the Royal Air Force ensign, the civil air ensign and any other ensign established by His Majesty in Council for purposes connected with air navigation.

As re-enacted by the 1936 Act.

- (m) for the imposition of penalties (not exceeding imprisonment for a term of six months and a fine of two hundred pounds) to secure compliance with the Order and authorising any steps to be taken for preventing aircraft from flying over prohibited areas or entering the United Kingdom in contravention of the Order which were authorised to be taken under section two of Aerial Navigation Act, 1913, for the purposes of that section⁽²⁾.

4. His Majesty may by Order in Council direct that any of the provisions of this Act other than this section shall extend with such exceptions, adaptations and modifications, if any, as may be

Application
to British
possessions.

⁽²⁾ As amended by the 1936 Act.

⁽³⁾ Re-enacted by the 1936 Act.

specified in the Order, to the Isle of Man any of the Channel Islands, any colony, any British protectorate or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom.

As re-enacted by the 1936 Act.

For application of the Act to Palestine, see Orders in Council, *post*.

5. Any sums required for the contribution from the United Kingdom for the organisation and operations of the international commission for air navigation set up under the Convention, or occasioned by the sending of technical delegations, shall be paid by the Secretary of State out of moneys provided by Parliament.

Expenses of international commission for air navigation, etc.

PART II. — GENERAL.

6. (Repealed by the 1936 Act).

7. (1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of State may, by order, regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, and notwithstanding the provisions of this Act or any Order or regulations made thereunder, the navigation of all or any descriptions of aircraft over the United Kingdom or any portion thereof, or the territorial waters adjacent thereto; and, may by order provide for taking possession of and using for the purposes of His Majesty's naval, military or air forces any aerodrome or landing ground, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, flying school, or landing ground, or any class or description thereof⁽²⁾.

Special powers in case of emergency.

(2) An order under this section may make for the purposes of the order such provision as an Order in Council under Part I of this Act may make for the purposes of the Order in Council by virtue of paragraph (*m*) of section three of this Act;

As re-enacted by the 1936 Act.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Secretary of State under this section, shall be entitled to receive compensation from the Secretary

⁽²⁾ As amended by the 1936 Act.

of State, the amount thereof to be fixed, in default of agreement, by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, the principles of that Act being applied, with the necessary modifications, where possession is taken of any land or premises:

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the United Kingdom or any part thereof⁽²⁾.

(4) An order under this section may be revoked or varied by a subsequent order made by the Secretary of State.

Establishment
of aerodromes
by Air Council
and Local
authorities.

8. — (1) The Secretary of State may, and any local authority to which this section applies may, with the consent of the Secretary of State and subject to such conditions as he may impose establish and maintain aerodromes, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation:

Provided that this subsection shall not be construed as authorising the Secretary of State to act otherwise than for purposes of civil aviation.

(2) Without prejudice to the operation of section fifteen of this Act, a local authority may, for the purpose of exercising any of the powers conferred on the authority by the preceding provisions of this section, acquire land by agreement; and for the avoidance of doubts it is hereby declared that one of the purposes for which a local authority may acquire land under this section is the purpose of securing that the land adjacent to the site of an aerodrome which the local authority has established or is about to establish, shall not be used in such manner as to cause interference with, or danger or damage to aircraft approaching or leaving the aerodrome.

(2A) The powers conferred on a local authority by the preceding provisions of this section shall be exercisable by that authority outside as well as within, its area:

The above three sub-secs. were re-enacted by the 1936 Act.

(3) The local authorities to which this section applies are the common council of the city of London, the councils of metropolitan boroughs, the councils of counties and county boroughs, and urban district councils, and the expenses of those councils under this section shall be defrayed, in the case of the common council of

⁽²⁾ As amended by the 1936 Act.

the city of London of the council of a metropolitan borough out of the general rate, in the case of a county council as expenses incurred in the administration of the Public Health Acts, 1875 to 1908.⁽³⁾

See note to sub-sec. 4, *infra*.

(4) A local authority may borrow for the purposes of this section, in the case of the common council of the city of London under the City of London Sewers Acts, 1848 to 1897, or in the case of a council of a metropolitan borough in like manner and subject to like conditions as for the purposes of the Metropolis Management Acts, 1855 to 1893, or, in the case of the London County Council, under and in accordance with the London County Council (Finance Consolidation) Act, 1912, as amended by any subsequent enactments, and in the case of the council of a county borough or urban district shall have the same power of borrowing under this section as they have under the Public Health Acts, 1875 to 1908, for the purpose of defraying any expenses incurred by them in the administration of those Acts, but money so borrowed shall not be reckoned as part of the debt of such local authority for the purposes of any enactment limiting the powers of borrowing by the authority⁽³⁾.

The above two sub-secs. should be read together with sec. 9(3) of the 1936 Act.

(5) For the purpose of the purchase of land under this section by a local authority, the Lands Clauses Acts shall be incorporated with this Act except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement.

(6) Nothing in this section shall authorise the execution of any works on, over or under tidal lands below high water mark of ordinary spring tides, except in accordance with plans and section previously approved in writing by the Board of Trade and subject to such conditions as they impose⁽⁴⁾.

The above section should be read together with secs. 8-12 of the 1936 Act.

9. — (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height above the ground, which, having regard to wind, weather, and all the circumstances of the case is reasonable, or the ordinary

Trespass,
nuisance, and
responsibility
for damage.

⁽³⁾ As amended by the 1936 Act.

⁽⁴⁾ As enacted by the 1936 Act.

incidents of such flight so long as the provisions of this Act and any Order made thereunder are duly complied with; but where material damage or loss is caused by an aircraft in flight, taking off, or landing, or by any person in any such aircraft, or by any article or person falling from any such aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act, neglect or default, except where the damage or loss was caused by or contributed to by the negligence of the person by whom the same was suffered⁽³⁾ :

Provided that where material damage or loss is caused as aforesaid in circumstances in which—

- (a) damages are recoverable from the owner in respect of the said damage or loss by virtue only of the preceding provisions of this section and,
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said damage or loss,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said damages or loss.

The proviso was re-enacted by the 1936 Act.

Damage or loss: See sec. 34 of the 1936 Act, as set out in sec. 19 of the first Schedule to the Application of Order, *post*.

(2) Where any aircraft has been *bona fide* demised, let, or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator, or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as though for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let, or hired out.

This sub-sec. does not affect the Carriage by Air Act (*post*): Sec. 15(6) of the 1936 Act.

Penalty for dangerous flying.

10. — (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds, or to imprisonment with or without hard labour

⁽³⁾ As amended by the 1936 Act.

for a term not exceeding six months, or to both such imprisonment and fine.

For the purposes of this section, the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(2) The provisions of this section shall be in addition to and not in derogation of the powers conferred on His Majesty in Council by Part I of this Act⁽⁴⁾.

11. — (1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in on or over the sea or any tidal water or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel; and where salvage services are rendered by an aircraft to any property or person the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

Wreck and salvage.

The preceding provisions of this subsection shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of His Majesty's dominions.

(2) His Majesty may by Order in Council direct that any provisions of any Act for the time being in force which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall with such exceptions, adaptations and modifications, if any as may be specified in the Order, apply in relation to aircraft as those provisions apply in relation to vessels.

(3) For the purposes of this section, any provisions of an Act which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck and the expression "Act" shall be deemed to include any local or special Act and any provisions of the Harbours, Docks and Piers Clauses Act, 1847, as incorporated with any local or special Act, whenever passed.

As re-enacted by the 1936 Act.

This section is to have effect from such date as His Majesty may by Order in Council appoint. (Fifth Schedule to the 1936 Act, sec. 11).

12. — (1) The Secretary of State may make regulations providing for the investigation of any accident arising out of or in the

Power to provide for investigation of accidents,

⁽⁴⁾ As amended by the 1936 Act,

course of air navigation and occurring in or over the United Kingdom or the territorial waters adjacent thereto, or elsewhere to British aircraft registered in the United Kingdom⁽⁵⁾.

(2) Without prejudice to the generality of the foregoing provision, regulations under this section may contain provisions—

- (a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified in the order;
- (b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of section three of the Notice of Accidents Act, 1894;
- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement, or surrender of any licence or certificate granted under this Act or any order made thereunder, where it appears on an investigation that the licence ought to be cancelled, suspended, endorsed, or surrendered, and for the production of any such licence for the purpose of being so dealt with:

Provided that nothing in the section shall limit the powers of any authority under sections five hundred and thirty to five hundred and thirty seven inclusive of the Merchant Shipping Act, 1894, or any enactment (including this Act) amending those sections.

(3) If any person contravenes or fails to comply with any regulations under this section, he shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding three months.

Detention of
aircraft.

12A. Any Order in Council, order or regulations made under this Act in relation to aircraft may provide for the detention of aircraft to secure compliance with the Order in Council, order or regulations, as the case may be, or with any provisions of this Act in connection with which the Order in Council, order or regulations is or are made, and, in the case of an Order in Council under Part

⁽⁵⁾ As amended by the 1936 Act.

I of this Act, provide for the detention of aircraft to prevent flying when unfit to fly, and may make such further provision as appears to His Majesty in Council or the Secretary of State, as the case may be, to be necessary or expedient for securing such detention.

As enacted by the 1936 Act.

13. — (1) Where it is alleged by any person interested that a foreign aircraft making a passage through or over the United Kingdom infringes in itself or in any part of it any invention, design or model which is entitled to protection in the United Kingdom, it shall be lawful, subject to and in accordance with Rules of Court, to detain such aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this section called the deposited sum), and thereupon the aircraft shall not, during the continuance or in the course of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, in respect or on account of the alleged infringement^(a).

Infringement
of patents.

(2) The deposited sum shall be such a sum as may be agreed between the parties interested, or in default of agreement shall be fixed by the Secretary of State or some person duly authorised on his behalf, and payment thereof shall be made or secured to him in such manner as he shall approve. The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by Rules of Court, and such rules may provide generally for carrying this section into effect.

(3) For the purposes of this section, the expression "owner" shall include the actual owner of an aircraft, and any person claiming through or under him, and the expression "passage" shall include all reasonable landings and stoppages in the course or the purpose of a passage.

14. — (1) Any offence under this Act or under an Order in Council or regulations made thereunder, and any offence whatever committed on a British aircraft, shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

Jurisdiction.

(2) His Majesty may by Order in Council, make provision as to the courts in which proceedings may be taken for enforcing any claim under this Act, or any other claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and

^(a) As amended by the 1936 Act.

applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

(3) (Repealed by the 1936 Act).

Acquisition
of land.

15. The power of a Secretary of State to acquire land under the Military Lands Acts, 1892 to 1903, shall include power to acquire land for the purposes of civil aviation, and those Acts shall have effect accordingly with the necessary modifications, and in particular as though references to a military purpose included references to any such purposes as aforesaid^(e).

(2) The Secretary of State shall have power to manage sell let or exchange any land vested in him for purposes of civil aviation whether acquired under the Military Lands Acts, 1892 to 1903, as amended by this section or under any other Act, and to pay or receive money in respect of equality of exchange:

Provided that nothing in this subsection shall be taken to affect the operation of section five of the Defence of the Realm (Acquisition of Land) Act, 1916, as respects any land acquired under that Act.

See note to the following sub-sec.

(3) The Secretary of State shall have power by agreement to take land on lease for purposes of civil aviation, and to manage and (subject to the terms of the lease) to sublet any land so taken on lease or assign the lease.

The above two sub-secs. were enacted by the 1936 Act.

Expenses
of the
Secretary of
State and
Air Council.

16. Any expenses incurred by a Secretary of State or the Air Council in the exercise of their powers under this Act, including the expenses of any investigation under this Act, shall be paid out of moneys provided by Parliament.

Provisions
as to Orders
in Council.

17. (1) Notwithstanding that an Order in Council made by virtue of this Act or a regulation so made by the Secretary of State has effect only as part of the law of the United Kingdom, no provision contained in the Order or regulation shall on the ground that it would have extra territorial operation be deemed to be invalid in so far as it applies to British aircraft registered in the United Kingdom wherever they may be or prohibits requires or regulates—

(a) the doing of anything by persons in, or any of the personnel of, such British aircraft as aforesaid wherever they may be, or

^(e) As amended by the 1936 Act.

- (b) the doing of anything in relation to such British aircraft as aforesaid by other persons being British subjects wherever they may be.

For the purpose of this subsection the personnel of an aircraft shall be deemed to include the commander or other person in charge of the aircraft and all other members of the crew of the aircraft.

Re-enacted by the 1936 Act.

(1A) His Majesty may by Order in Council direct that any of the provisions of this Act or any Order in Council or regulations made by virtue of this Act, being a provision which has extra territorial operation in relation to British aircraft registered in the United Kingdom shall subject to such exceptions, adaptations and modifications if any as may be specified in the Order made under this subsection have such operation also in relation to British aircraft registered in any country or territory to which any of the provisions of this Act can be extended under section four of this Act.

Enacted by the 1936 Act.

(2) An order in Council under this Act may be revoked or varied by a subsequent Order in Council.

(3) Any Order in Council made under this Act shall be laid before each House of Parliament forthwith, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty one days on which that House has sat next after any such Order is laid before it praying that the Order or any provision thereof may be annulled, His Majesty in Council may annul the Order or provision, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

Inapplicable under sec. 5 of 1936 Act.

(4) Any Order in Council under this Act may authorise the Secretary of State to make regulations for carrying out the purposes of the Order in respect of such matters as may be specified in the Order.

Enacted by the 1936 Act.

18. (1) This Act shall not apply to aircraft belonging to or exclusively employed in the service of His Majesty: Savings.

Provided that His Majesty may, by Order in Council, apply to any such aircraft, with or without modification, any of the provisions of this Act or of any orders or regulations made thereunder.

(2) Nothing in this Act, or in any orders or regulations thereunder, shall prejudice or affect the rights, powers, or privileges of any general or local lighthouse authority.

Application
to Scotland
and Ireland.

19. (1) This Act shall apply to Scotland subject to the following modifications:—

Subsections (3) and (4) of the section of this Act relating to establishment of aerodromes by the Air Council and local authorities shall not apply, and in lieu thereof—

(a) the local authorities to which the said section shall apply shall be county councils and town councils, and the expenses of county councils under the said section shall be defrayed out of the general purposes rate, provided that notwithstanding anything in the Local Government (Scotland) Act, 1889, the ratepayers of any police burgh, which shall have established an aerodrome in virtue of the powers conferred by the said section, shall not be assessed by the county council for any such expenses, and the expenses of town councils under the said section shall be defrayed out of the public health general assessment, provided that such expenses shall not be reckoned in any calculation as to the statutory limit of that assessment;

To be read with 9(3) of 1936 Act.

(b) a county council may borrow for the purposes of the said section on the security of the general purposes rate in the manner and subject to the conditions prescribed by the Local Government (Scotland) Act, 1889, and a town council may borrow for the purposes of the said section on the security of the public health general assessment in like manner and subject to the like conditions as they may borrow for the purpose of the provision of hospitals.

(2) (Repealed by the 1936 Act).

(3) His Majesty may by Order in Council direct that in Northern Ireland the powers conferred by or under any of the provisions of section eight of this Act and of Part II of the Air Navigation Act, 1936, on a local authority to which that section applies shall (subject to any restrictions imposed by the Order) be and be deemed always to have been exercisable also by any statutory body specified in the Order and that any of the said provisions shall

in relation to that body have effect subject to such adaptations as may be so specified.

Enacted by the 1936 Act.

20. (1) This Act may be cited as the Air Navigation Act, 1920.

(2) The Air Navigation Acts, 1911 to 1919, are hereby repealed:

Short title
repeals, and
commencement.

Provided that any certificate or licence issued under those Acts or under any order made thereunder shall remain in force as though the same had been issued under this Act, and that any orders made by the Secretary of State under those Acts, and in force at the date of the passing of this Act, shall continue in force until revoked or superseded by an Order in Council under this Act, and whilst in force shall have effect as though those Acts were still in force.

SCHEDULE.

(Repealed by the 1936 Act).

THE AIR NAVIGATION ACT, 1936.

The sections amending the 1920 Act have been incorporated with that Act. Certain sections, applied to Palestine, are set out in the Schedule to the Application of Acts Order, *post*.

AIR NAVIGATION ETC., ORDER.

THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) ORDER, 1927, DATED DECEMBER 20, 1927, AS AMENDED BY THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1929, DATED JANUARY 29, 1929, THE WEI-HAI-WEI ORDER IN COUNCIL, 1930, DATED NOVEMBER 27, 1930, THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1931, DATED NOVEMBER 9, 1931, THE CAMEROONS UNDER BRITISH MANDATE ORDER, 1923, DATED MARCH 17, 1932, THE TOGOLAND UNDER BRITISH MANDATE ORDER, 1932, DATED MARCH 17, 1932, AND THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1932, DATED DECEMBER 15, 1932⁽¹⁾, AND THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1935, DATED OCTOBER 15, 1935⁽²⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1936, DATED JANU-

(1) This and all former Orders were consolidated in Drayton, Vol. III, pp. 2411 *sqq.*

(2) P. G. 679 of 8.4.37, sup. 2, p. 331.

ARY 31, 1936⁽³⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) (No. 2) ORDER, 1936, DATED OCTOBER 27, 1936⁽⁴⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1937, DATED JULY 1, 1937⁽⁵⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) (No. 2) ORDER, 1937, DATED DECEMBER 21, 1937⁽⁶⁾; THE AIR NAVIGATION (ADEN) ORDER, 1938, DATED JULY 7, 1938⁽⁷⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1938, DATED, NOVEMBER, 11, 1938⁽⁸⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) (No. 2) ORDER, 1938, DATED DECEMBER 12, 1938⁽⁹⁾; THE AIR NAVIGATION (COLONIES, PROTECTORATES AND MANDATED TERRITORIES) (AMENDMENT) ORDER, 1939, DATED SEPTEMBER 2, 1939⁽¹⁰⁾.

ARRANGEMENT OF ORDER.

1. Application of Order.
2. Nationality of aircraft.
3. Aircraft to which Order applies.
4. General conditions of flying.
5. Further conditions of flying within the Colony.
6. Further conditions applicable to passenger aircraft.
7. Reference to Schedules.
8. Accessibility of and charges at aerodromes.
- 8A. Passenger aerodromes.
- 8B. Use of Air Force aerodromes under the control of the Secretary of State for Air or the Governor.
9. Right of inspection and access to aerodromes and factories.
10. General safety provisions.
- 10A.
- 10B.
11. Power to prevent flights in contravention of Order.
12. Drunkenness of pilots, etc.
13. Parachute descents and dropping of articles.
- 13A. Personnel to be carried by British aircraft.
14. Instruments, etc., to be carried by British aircraft.

⁽³⁾ P. G. 679 of 8.4.37, sup. 2, p. 341.

⁽⁴⁾ P. G. 679 of 8.4.37, sup. 2, p. 343.
(Repealed P. G. 748 of 6.1.38, p. 1).

⁽⁵⁾ P. G. 748 of 6.1.38, sup. 2, p. 1.

⁽⁶⁾ P. G. 756 of 3.2.38, sup. 2, p. 238.

⁽⁷⁾ P. G. 908 of 3.8.39, sup. 2, p. 563.

⁽⁸⁾ P. G. 908 of 3.8.39, sup. 2, p. 565.

⁽⁹⁾ P. G. 908 of 3.8.39, sup. 2, p. 569.

⁽¹⁰⁾ P. G. 945 of 5.10.39, sup. 2, p. 931. All the above Orders are here consolidated.

15. Wireless telegraphy.
16. Documents to be carried by British aircraft.
17. Certificates of airworthiness.
18. Production of documents for inspection
19. Prohibited carriage.
- 19A. Carriage of dangerous goods.
20. Aerial lighthouses.
21. False lights.
22. Use of signals, signs and marks.
- 22A. Civil Air Ensign.
23. Arrival and departure from the Colony.
24. Customs provisions to be observed by aircraft flying abroad.
25. Forgery, etc., of documents.
26. Application to foreign military aircraft.
27. Exceptions to operation of Order.
28. Penalties.
29. Power to cancel, suspend or endorse licences and certificates.
30. Regulations by the Governor.
31. Interpretation.
32. Printing of Order.
33. Saving.
34. Short title and commencement.

Schedules.

- I. Registration and marking of aircraft.
- II. Certificates of airworthiness for aircraft; detention of un-airworthy aircraft; inspection, overhauls, etc.
- III. Log-books.
- IV. Rules as to lights and signals and rules for air traffic.
- V. Licensing of personnel.
- VI. Prohibited areas.
- VII. Annex H. of the Convention.
- VIII. Colonies and Protectorates.
- IX. Mandated Territories.

Whereas by subsection (2) of Section 4 of the Air Navigation Act, 1920, it is provided that His Majesty may, by Order in Council, make any provisions of an Order in Council made under Sections 1 to 3 of the said Act applicable to any British Possessions other than those mentioned in the Schedule to the said Act and (save as therein provided) to any territory under His Majesty's protection, and to registered aircraft being the property of British subjects resident or companies incorporated therein, with such modifications and extensions as shall appear necessary:

4(2) was repealed in 1936. See saving provision in sec. 30(1) of the 1936 Order.

And whereas His Majesty did on the 19th day of December, 1923, make an Order in Council entitled the Air Navigation (Consolidation) Order, 1923, under the said sections of the said Act:

And whereas His Majesty did on the 16th day of December 1925, and on the 22nd day of March, 1927, make further Orders in Council entitled respectively the Air Navigation (Amendment) Order, 1925, and the Air Navigation (Amendment) Order, 1927, under the said sections of the said Act.

The following Orders, enacted after the date of the first Order (which is consolidated with subsequent Orders) are omitted in Drayton: The Air Navigation (Amendment) Order, 1928; The Air Navigation (Amendment) (No 3) Order, 1928; The Air Navigation (Amendment) (No. 4) Order, 1928; The Air Navigation (Amendment) (No 4) Order, 1929; The Air Navigation (Amendment) (No. 3) Order, 1929; The Air Navigation (Amendment) (No. 2) Order, 1930; The Air Navigation (Amendment) Order, 1931; The Air Navigation Amendment) Order, 1932.

And whereas it is expedient to make certain of the provisions of the said Orders in Council applicable to certain British possessions and certain territories under His Majesty's protection and to registered aircraft being the property of British subjects resident or companies incorporated therein:

The 1935 Order added "and otherwise in the manner hereinafter appearing".

Now, therefore, His Majesty, by virtue of and in exercise of the powers in this behalf by the Air Navigation Act, 1920, or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

Application
of Order.

1. The provisions of this Order shall apply to the British possessions and territories mentioned in Schedule VIII and IX hereto (any one of which is hereinafter referred to in the expression "the Colony").

2. (1) An aircraft shall be deemed to possess the nationality of the State on the register of which it is entered.

Nationality
of aircraft.

(2) Aircraft registered in the Colony, and aircraft registered in any other part of His Majesty's dominions when in or over the Colony, shall be deemed to be and are in this Order referred to as British Aircraft.

Aircraft
to which
order applies.

3. The provisions of this Order apply (unless the contrary intention appears)—

(a) to all British aircraft registered in the Colony wherever such aircraft may be;

(b) to other British aircraft and foreign aircraft when such aircraft are in or over the Colony;

and for the purposes of liability under this Order, other than liability for want of registration, where an aircraft is not registered and by reason thereof has no nationality for the purposes of this Order, this Order shall apply to such aircraft when flying within the Colony in like manner as it applies to aircraft registered in the Colony.

4. (1) An aircraft shall not fly unless the following general conditions are complied with:—

General conditions of flying.

(i) The aircraft shall be registered and bear the prescribed nationality and registration marks and the names and residence of the owner painted on or affixed to the aircraft in the prescribed manner.

[1935.]

(ii) The aircraft shall be certified as airworthy in the prescribed manner, and any terms or conditions on or subject to which the certificate of airworthiness was granted shall be duly complied with;

(iii) The personnel of the aircraft shall be of the prescribed number and description and shall be provided with the prescribed certificates of competency and licences;

[1931.]

(iv) There shall be carried in the aircraft the prescribed documents and journey log-book kept up to date in the prescribed form and manner:

Provided that:—

(a) Conditions (i), (ii) and (iv) shall not apply to aircraft flown for the purpose of experiment or test only, within three miles of a licensed aerodrome, a Royal Air Force aerodrome, an aerodrome under the control of the Secretary of State for Air or the Governor, or an aircraft factory, or to aircraft flown in accordance with directions or special permission in writing given by the Governor under this Article, and subject to any conditions or limitation which may be laid down in such directions or permission.

(b) Condition (iii) in so far as it relates to certificates of competency and licences shall not apply in the case of candidates undergoing official tests for the purpose of obtaining a licence, or within three miles of a licensed aerodrome, a Royal Air Force aerodrome, or an aerodrome under the control of the Secretary of State for Air or the Governor, in the case of personnel whilst under instruction, or whilst engaged in a flight, in accordance with such directions as aforesaid, for the purpose of becoming eligible for the issue of a licence.

[1931.]

(c) Condition (ii) shall not apply to ballons or kites when being flown within the Colony and not carrying passengers for hire or reward.

[1929.]

(d) Condition (iv) in so far as it relates to journey log books shall not apply in the case of a British aircraft registered in the Colony except when engaged in international navigation.

[1937.]

(2) In this article "prescribed," in relation to aircraft other than British aircraft registered in the Colony, means prescribed by the law of the State on whose register the aircraft is entered and in relation to British aircraft registered in the Colony has the meaning assigned to it by article 3 of this Order.

Further conditions of flying within the colony.

5. (1) Save as hereinafter expressly provided, an aircraft shall not fly within the Colony unless the following further conditions are complied with:—

- (i) The aircraft shall possess the nationality of a contracting State;
- (ii) The provisions of this Order as to general safety, and as to the dropping of articles from aircraft, shall be duly complied with;
- (iii) Except as may be provided in the proclamation whereby the prohibited area is established, or in any subsequent proclamation, the aircraft shall not land in any prohibited area as defined in this Order and shall not fly over any such area;
- (iv) Such members of the personnel of the aircraft as are British subjects shall be provided with certificates of competency and licences issued or rendered valid by a duly competent authority within His Majesty's dominions;
- (v) The prescribed conditions as to the maintenance of airworthiness shall be complied with, and the prescribed certificates as to airworthiness shall be carried in the aircraft;
- (vi) The aircraft shall conform to such orders as may be lawfully given in regard to it by officers of Police or of Customs and Excise:

[1936.]

Provided that—

[1929.]

(a) Condition (i) shall not apply to the aircraft of a State with which a special convention relating to air navigation entered into by or on behalf of His Majesty is for the time being in force, so long as the conditions of the special convention are complied with; and

[1931.]

(b) Conditions (i) and (v) shall not apply to aircraft flown for the purpose of experiment or test only, within three miles of a licensed aerodrome, a Royal Air Force aerodrome, an aerodrome under the control of the Secretary of State for Air or the Governor, or an aircraft factory, or to aircraft flown in accordance with directions or special permission in writing given by the Governor under this Article, and subject to any conditions or limitations which may be laid down in such directions or permission.

(c) Condition (iv) shall not apply in the case of candidates undergoing official tests for the purpose of obtaining a licence, or within three miles of a licensed aerodrome, a Royal Air Force aerodrome, or an aerodrome under the control of the Secretary of State for Air or the Governor, in the case of personnel whilst under instruction or whilst engaged in a flight, in accordance with such directions as aforesaid, for the purpose of becoming eligible for the issue of a licence. [1929.]

(d) Condition (v) shall not apply to balloons or kites when not carrying passengers for hire or reward.

(e) Condition (v) in so far as it relates to the carrying in the aircraft of the prescribed certificates as to airworthiness shall not apply in the case of a British aircraft registered in the Colony except when engaged in international navigation or when flying as a public transport aircraft or an aerial work aircraft. [1929.]
[1937.]

(2) A fixed balloon shall not be flown within the Colony except with the special permission in writing of the Governor, and subject to any conditions that may be attached to such permission, and the Governor may, on the granting of such permission or subsequently, direct that the provisions of this Order or any of them shall not apply to the balloon in question, or shall apply subject to such modifications as he thinks fit.

6. —(1) The Governor may, on application made in the prescribed manner, license an aerodrome either for public use or for use by particular persons or classes of persons, and for use either by aircraft of all classes and descriptions or by particular aircraft or classes or descriptions of aircraft.

Licensed
aerodromes.
[1937.]

(2) The Governor may grant a licence in respect of an aerodrome on such conditions as may be prescribed or specified in the licence, and any conditions so prescribed or specified shall be complied with by the proprietor of the aerodrome as if they were contained in this Order.

(3) Any licence granted by the Governor in respect of an aerodrome shall remain in force for such period as may be specified therein not exceeding such period as may be prescribed by directions issued by the Governor. The Governor may from time to time on application made in the prescribed manner renew any licence granted by the Governor in respect of an aerodrome and such renewal may be with or without variation of any conditions previously prescribed or specified in the licence.

7. The provisions in Schedule I to VI inclusive to this Order shall have effect as part of this Order, and shall be duly observed by all persons concerned in the cases to which they relate, that is to say:—

Reference to
schedules.

Schedule.	Subject matter.
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- I. Registration and marking of aircraft.
- II. Certificates of airworthiness for aircraft; detention of unairworthy aircraft; inspection, overhauls, etc.
- III. Log-books.
- IV. Rules as to lights and signals and rules for air traffic.
- V. Licensing of personnel.
- VI. Prohibited areas.

Accessibility
of and charges
at aerodromes.
[1937.]

8.—(1) The proprietor of an aerodrome to which this Article applies shall

- (a) allow the aircraft of all countries alike to use the aerodrome to the same extent and upon the same conditions;
- (b) exhibit and keep exhibited in a conspicuous place in the aerodrome a tariff of charges;
- (c) not make, in respect of a service rendered to an aircraft, any charge which is greater than the charge authorised by the said tariff in respect of that service.

(2) Every such tariff as aforesaid shall include charges for landing and length of stay applicable to the aircraft of all countries alike and shall be in such form and on such a scale as respects charges as may be approved by the Governor, and no tariff shall be exhibited in any aerodrome to which this Article applies unless it has been so approved by the Governor.

(3) The approval of the Governor of any such tariff as aforesaid shall have effect during such period and subject to such conditions with regard to the termination or renewal thereof as may be specified therein.

(4) This Article applies to aerodromes which are

- (a) licensed by the Governor for public use; or
- (b) open to public use by British aircraft on payment of charges;

but does not apply to Royal Air Force aerodromes or aerodromes under the control of the Secretary of State for Air or the Governor.

Passenger
aerodromes.
[1937.]

8A.—(1) An aircraft when carrying passengers for hire or reward shall not use as a place of landing or departure any place in the Colony other than

- (a) an aerodrome licensed for use by such an aircraft; or
- (b) a Royal Air Force aerodrome or an aerodrome under the control of the Secretary of State for Air or the Governor, which has been authorised by the Secretary of State for Air or the Governor, as the case may be, to be used as such a place.

Provided that this prohibition shall not apply:—

- (i) to a landing due to accident, stress of weather or other unavoidable cause or to the next subsequent departure from the place in which the landing due to any such cause has been made; or
- (ii) to a landing or departure made by an aircraft which has been hired or chartered by or on behalf of the passengers carried therein if the landing or departure is made in accordance with the requirements of the hirer or charterer of the aircraft and if no passengers other than those by whom or on whose behalf the aircraft was hired or chartered are accepted for carriage for hire or reward at the place of such landing or departure.

(2) No person, being the proprietor of an aerodrome other than an aerodrome mentioned in paragraph (1) of this Article, shall permit his aerodrome to be used by an aircraft in contravention of that paragraph.

8B. Any directions issued by the Secretary of State for Air or the Governor as to the use of Royal Air Force aerodromes or aerodromes under the control of the Secretary of State for Air or the Governor the use of which has been authorised by the Secretary of State for Air or the Governor, as the case may be, shall be complied with.

Use of Royal Air Force aerodromes under the control of the Secretary of State for Air or the Governor. [1937.]

9.—(1) Any person authorised by the Governor shall have the right of access at all reasonable times to any aerodrome other than a Royal Air Force aerodrome for the purpose of inspecting the aerodrome, and any person so authorised and any police constable shall have the right of access at all reasonable times to any place to which access is necessary for the purpose of carrying out his powers and duties under this Order.

Right of inspection and access to aerodromes and factories.

(2) All military aircraft belonging to or employed in the service of His Majesty shall have at all reasonable times the right of access to any licensed aerodrome, subject to the conditions of the licence.

10.—(1) An aircraft shall not fly over any city or town within the colony except at such altitude as will enable the aircraft to land outside the city or town should the means of propulsion fail through mechanical breakdown or other cause:

General safety provisions. [1935.]

Provided that this prohibition shall not apply to an aircraft which is departing from, or about to land at, a licensed aerodrome, a Royal Air Force aerodrome, or an aerodrome under the control of the Secretary of State for Air or the Governor, whilst the aircraft is within a distance of one mile from the nearest point of the boundary of such aerodrome.

[1935.]

(1A) Except with the special permission in writing of the Governor, and subject to any conditions that may be attached to such permission, a flying machine registered in the Colony and carrying passengers for hire or reward on a regular line or service of public air transport shall not, unless it is designed to manoeuvre on the water, be flown over the sea or any inland waters in such circumstances that, in the event of the stoppage of its engine or one of its engines, it would be unable to reach land.

(2) An aircraft in or over the Colony shall not—

[1937. (No. 2)]

- (a) be used to carry out any trick flying or exhibition flying over any city or town area or populous district; or
- (b) fly over or in the immediate vicinity of any place where a large concourse of the public is assembled in the open air in connection with any event of public interest except with the consent in writing of the Governor and of the organizers if any of the event: provided that this prohibition shall not apply to an aircraft which is being used for police purposes or to an aircraft passing from place to place in the ordinary course of navigation and flying at a reasonable height;

provided that this prohibition shall not apply—

[1938. (No. 2)]

- (i) in a case where any such concourse is assembled for the purpose of witnessing an event which consists wholly or principally of an aircraft race or contest or exhibition of flying, to an aircraft taking part in such race, contest or exhibition or engaged in a flight arranged by or made with the written approval of the organizers of the event as part of the entertainment afforded in connection therewith;
- (ii) to an aircraft which is being used for police purposes.
- (iii) to an aircraft arriving at or departing from a licensed aerodrome if flying over or in the immediate vicinity of any such place as aforesaid is necessary for the purpose of effecting such arrival or departure; or
- (iv) to an aircraft passing from place to place in the ordinary course of navigation and flying at a reasonable height; or

[1937.]

- (c) be flown in such manner or in such circumstances as, by reason of low altitude or proximity to persons or dwellings or to other aircraft, or for any other reason, to cause unnecessary danger to any person or property on land or water or in the air.

[1935.]

(3) Whenever an aircraft registered in the Colony is carrying passengers for hire or reward—

- (a) the owner of the aircraft shall cause to be exhibited and kept exhibited in a conspicuous place in the aircraft

a legible notice stating whether and to what extent smoking is permitted in the aircraft; and

- (b) no person shall smoke in the aircraft unless, or except in so far as smoking is stated by the notice to be permitted.

No notice exhibited in an aircraft for the purpose of the foregoing provisions of this paragraph shall state that smoking is permitted therein unless, or except in so far as, smoking therein is authorised by the aircraft's certificate of airworthiness or by the permission in writing of the Governor.

No person shall smoke in an aircraft registered in the Colony when it is not carrying passengers for hire or reward unless, or except in so far as, smoking therein is authorised by the aircraft's certificate of airworthiness or by the permission in writing of the Governor.

(3A.) In every British aircraft registered in the Colony such particulars of or notices relating to the design, construction and weight of the aircraft or the equipment thereof or to any restrictions to be observed and precautions to be taken to secure the safety of the aircraft shall be exhibited and kept exhibited in such manner and in such place in the aircraft as the Governor may prescribe. [1937.]

(4) A person shall not commit any act, whether by interference with the pilot or a member of the operative crew, or by tampering with the aircraft or its equipment, or by disorderly conduct, or by any other means, likely to imperil the safety of any aircraft, its passengers, or crew.

(5) Subject to the provisions of this paragraph, when an aircraft is flying within the Colony, no person shall at any time be carried on the wings or undercarriage of the aircraft, or on or in any other part thereof which is not designed for the accommodation of the personnel or passengers, or on or in anything attached to the aircraft: [1935.]

Provided that—

- (a) nothing in this paragraph shall prevent a person having temporary access—
- (i) to any part of the aircraft for the purpose of executing repairs to the aircraft or adjusting the machinery or equipment thereof or for the purpose of doing anything which may be necessary for the safety of the aircraft or persons or goods carried therein; or
 - (ii) to any part of the aircraft in which goods or stores are being carried and to which proper means of access is provided; and
- (b) a person may be carried on or in any part of the aircraft, or anything attached thereto, with the permission in writing of the Governor and subject to any conditions which may be attached to that permission,

[1937.]

(6) Subject to the proviso contained in paragraph (7) of this Article an aircraft shall not (a) be used in flight for the purpose of towing another aircraft or any banner, drogue, flag or similar article, or (b) be towed in flight by another aircraft unless the aircraft is being so used or towed (i) in accordance with the certificate of airworthiness, if any, of such aircraft and subject to the conditions or limitations contained therein, or (ii) in pursuance of special permission in writing given by the Governor and in accordance with and subject to any conditions or limitations imposed by such special permission.

[1937.]

(7) An aircraft banner, drogue, flag or similar article shall for the purpose of paragraph (6) of this Article be deemed to be towed if it is attached to an aircraft in flight by any means external to the aircraft to which it is attached which causes the aircraft, banner, drogue, flag or similar article so attached to follow or accompany in flight the aircraft to which it is attached:

Provided that nothing in this paragraph or in paragraph (6) of this Article shall prohibit the reasonable user or display by or from an aircraft in flight of wireless aerials, any instrument which is being used for experimental purposes or any signal, apparatus, equipment or article required or permitted to be displayed or used by or from an aircraft in flight in accordance with any provision of this Order or of any direction of the Governor thereunder.

[1938. (No. 2)]

(8) In every flying machine registered in the Colony and carrying passengers for hire or reward or, in a case where the carriage is effected by an air transport undertaking, whether for hire or reward or not—

(a) every means of exit from the aircraft and from every passenger compartment therein shall be kept free from any obstruction and no such means of exit shall be so fastened by locking or otherwise as to hinder the immediate use thereof in an emergency; and

(b) the position of every such means of exit which is specially provided for use in an emergency shall be clearly marked and in each case the method of operation shall be indicated.

[1938. (No. 2)]

(9) The Governor may, for the purpose of promoting the safety of aircraft, make regulations as to special signals and other communications to be made by or to an aircraft, as to the course on which and the height at which an aircraft shall fly and as to any other precautions to be observed in relation to the navigation and control of aircraft which the Governor may consider expedient for the purpose aforesaid and no aircraft shall fly in contravention of any such regulations.

10A.—(1) No person shall fly in an aircraft of any type, being an aircraft registered in the Colony, for the purpose of

instructing another person carried therein in flying the aircraft unless—

- (a) the first-mentioned person (hereafter referred to as "the instructor") holds a pilot's licence to fly aircraft of that type, being a licence granted or rendered valid under this Order; and [1935.]
- (b) in a case where payment is made for the instruction (except a case where the aircraft belongs to an aeroplane club of which both the instructor and the said other person are members), the licence so held by the instructor is a licence to fly public transport or aerial work aircraft; and
- (c) in a case where payment is made for the instruction the instructor is authorised by the Governor, by endorsement on the licence, to give instruction in flying.

(2) For the purpose of this Article, applications to the Governor for authority to give instruction in flying shall be made in such form and manner, and may be granted for such period and on compliance with such conditions, as the Governor may direct.

(3) Nothing in this Article shall be taken to prevent the pilot of a public transport or aerial work flying machine exercising supervision over a member of the operating crew thereof who is manoeuvring the machine as permitted by this Order, or by directions issued thereunder, notwithstanding that such pilot has not been authorised as aforesaid.

10B. Notwithstanding any other provision of this Order, it shall not be lawful— [1935.]

- (a) for a person under the age of seventeen years to have sole control of an aircraft in motion; or
- (b) for any person to cause or permit a person apparently under the age of seventeen years to have sole control of an aircraft in motion:

Provided that, in any prosecution for a contravention of paragraph (b) of this Article, it shall be a defence to prove that the person apparently under the age of seventeen years was at the time of the alleged contravention actually of or over that age.

11. Where it appears to any person authorised in writing by the Governor for the purposes of this article that any aircraft is intended or likely to be flown in such circumstances that the flight would be in contravention of any of the provisions of sub-paragraphs (i), (ii), and (iii) of paragraph (1) of article 4, or sub-paragraph (i) of paragraph (1) of article 5, or article 19 of this Order, or in such circumstances as to infringe any other provision of this Order and to be a cause of danger to any person or property on land or water or in the air, the person so authorised may give such directions,

Power to prevent flights in contravention of order. [1937. (No. 2)]

and take such steps by way of detention of the aircraft or otherwise in relation thereto, as appear to him to be necessary in order to prevent the flight, and, without prejudice to any provisions of this Order with respect to the obstruction of authorised persons, any person acting in contravention of any directions given under this article shall be deemed to have acted in contravention of this Order.

Drunkenness
of pilots, etc.

12. A person acting as, or carried in an aircraft for the purpose of acting as, pilot, commander, navigator, engineer, or operative member of the crew thereof, shall not, while so acting or carried, be in a state of intoxication or in a state in which, by reason of his having taken or used any sedative narcotic or stimulant drug or preparation, his capacity so to act is impaired, and no other person while in a state of intoxication shall enter or be in any aircraft.

Parachute
descents and
dropping of
articles.
[1935.]
[1937.]

13. A person shall not, except in a case of emergency, descend by means of a parachute from an aircraft flying within the Colony, and no article, whether attached to a parachute or not, shall be dropped from any such aircraft, unless the descent is made or the article is dropped in accordance with and subject to any conditions or limitations contained in directions or any special permission in writing given by the Governor;

Provided that nothing in this Article shall be taken to prevent the dropping of ballast which is not prohibited by paragraph 50 of Schedule IV to this Order.

Personnel to
be carried by
British aircraft.
[1931.]

13A. The Governor may by directions prescribe the number and description of the personnel to be carried, either in all circumstances specified in the directions, by any class or description of British aircraft registered in the Colony:

Provided that in any case where the Convention requires that an aircraft shall carry a certain number of persons of a certain description, the number of persons of that description prescribed in that case shall not be less than the number required by the Convention.

Instruments,
etc., to be
carried by
British aircraft.
[1938. (No. 2)]

14. In every British aircraft registered in the Colony, when flying — (a) there shall be carried and maintained in a fit condition for immediate use such instruments and equipment applicable to the class or description of the aircraft as may be prescribed, and any such instruments and equipment shall be installed or stowed in the aircraft in such manner and position and in such places, which shall be marked in such manner, and shall be used by such persons and in such manner as may be prescribed; and (b) such devices shall be used and such precautionary measures shall be taken (including the treatment of any part of the aircraft with specified preparations) as may be prescribed for the purpose of promoting the safety of the aircraft.

Wireless
telegraphy.

15. (1) The Governor may give directions prescribing the conditions in which British aircraft registered in the Colony shall, when flying,

- (i) carry wireless telegraphy apparatus; and
- (ii) carry certified operators; and
- (iii) maintain wireless telegraphy service;

and such directions may prescribe the character of the apparatus, the number and qualifications of the operators and the nature of the service, and when any such directions have been given they shall be complied with in the case of any aircraft to which they apply as if contained in this Order.

(2) In this Article the expression "certified operator" means an operator who is the holder of a certificate of proficiency in radio-telegraphy granted or recognised by the competent authority in that behalf for the Colony.

(3) Nothing in this Article shall exempt any person from any requirements as to licences for wireless telegraphy which are in force in the Colony.

16. Save as otherwise expressly provided for in this Order there shall be carried by a British aircraft registered in the Colony:—

Documents to
be carried by
British aircraft.
[1937.]

(1) when engaged in international navigation, the following documents:—

- (a) its certificate of registration;
- (b) its certificate of airworthiness and any other certificate relating to the aircraft, which may be required by this Order to be carried in the aircraft;
- (c) the certificates of competency and licences of its personnel;
- (d) its journey log book;
- (e) any licence to use wireless apparatus in the aircraft for the time being in force;
- (f) if it carries passengers, a list of their names;
- (g) if it carries freight, bills of lading and manifest in respect thereof;

(2) when not engaged in international navigation but when flying as a public transport aircraft or an aerial work aircraft, the documents specified in (b) and (c) of paragraph (1) of this Article.

17. The certificate of airworthiness of a British aircraft registered in the Colony shall be kept in the pocket of the journey log book when that log book is required under this Order to be carried in the aircraft.

Certificate of
airworthiness.
[1937.]

18.—(1) The person in charge of an aircraft shall, on demand made on the landing or departure of the aircraft by an

Production of
documents for
inspection.
[1937.]

authorised person, produce to that person any of the following documents relating to the aircraft or its personnel:—

- (a) its certificate of registration;
- (b) its certificate of airworthiness and in the case of a British aircraft registered in the Colony any other certificate relating to the aircraft which may be required by this Order to be carried in the aircraft;
- (c) the certificates of competency and licences of its personnel;
- (d) its journey log book in all cases in which the journey log book is required under this Order to be carried in the aircraft;
- (e) any licence to use wireless apparatus in the aircraft for the time being in force;
- (f) if it is engaged in international navigation and carries passengers, a list of their names;
- (g) if it is engaged in international navigation and carries freight, bills of lading and manifest in respect thereof:

Provided that, in the case of a British aircraft registered in the Colony which is within the Colony and is not engaged in international navigation, it shall be deemed to be a sufficient compliance with this paragraph, except as regards the production of the documents specified in (b) and (c) above in the case of an aircraft flying as a public transport aircraft or aerial work aircraft, if the person in charge of such aircraft to whom any such demand has been made to produce any of the said documents shall, within five days after such demand has been made, produce or cause to be produced the document or documents so demanded at such police station as may be specified by him at the time of such demand.

(2) The owner of a British aircraft registered in the Colony shall, on demand made by an authorised person, produce or cause to be produced, within a reasonable time, to that person—

- (a) any certificate of registration or certificate of airworthiness for the time being in force with respect to the aircraft;
- (b) any journey log book and any other log book required by this Order to be kept in respect of the aircraft wherein any entry was made within the period of two years next before the date of the demand;
- (c) any licence to use wireless apparatus in the aircraft for the time being in force.

(3) The holder of any licence granted or rendered valid under this Order and any person required under this Order to be provided with a licence shall, on demand made by an authorised person, produce the licence:

Provided that, in the case of a demand being made as aforesaid for the production of a licence granted or rendered valid under

Schedule V to this Order and not being a licence entitling the holder thereof to act as commander, pilot, navigator, engineer, or other operative member of the crew of a public transport aircraft or an aerial work aircraft, it shall be deemed to be a sufficient compliance with this paragraph if the holder of such licence shall, within five days after such demand has been made, produce or cause to be produced the licence so demanded at such police station as may be specified by him at the time of such demand.

(4) A pilot licensed under this Order shall, on demand made by an authorised person, produce or cause to be produced, within a reasonable time, to that person any pilot's log book kept by him wherein any entry was made within the period of two years next before the date of the demand.

(5) For the purpose of this Article the expression 'authorised person' means a police officer, or a person authorised for the purpose by the Governor.

19. Save for the purposes of the provisions of Schedule IV to this Order as to signals—

Prohibited carriage.

- (i) an aircraft engaged in international navigation shall not carry explosives of war, arms of war, or munitions of war;
- (ii) a foreign aircraft shall not carry explosives of war, arms of war, or munitions of war between any two points within British territory, either or both of which is within the Colony.

19A.—(1) Subject as hereinafter in this paragraph provided, no person shall carry in

Carriage of dangerous goods.
[1938. (No. 2)]

- (i) any British or foreign aircraft when such aircraft is in or over the Colony; or
- (ii) any British Aircraft registered in the Colony when such aircraft is carrying passengers for hire or reward outside the Colony

any dangerous goods to which this Article applies except with the special permission in writing of the Governor, and subject to any conditions imposed by such special permission:

Provided that the special permission of the Governor shall not be required for the carriage of—

- (a) safety cartridges, so long as, when carried as cargo in an aircraft carrying passengers or goods for hire or reward, such cartridges are packed in substantial tin-lined wooden cases in such a manner as to ensure that there is no undue movement within the package, and
- (b) any article of equipment of the aircraft or any article required for the purposes of the operation, navigation or safety of the aircraft or the safety or well-being of any person or persons on board, so long as, in the case of a

British aircraft registered in the Colony, fuel and oil are carried in the fuel and oil tanks of such aircraft or in special stowage approved for the purpose by the Governor and articles of an inflammable nature required in connection with the navigation or safety of the aircraft are of a type approved by the Governor.

- (2) Subject as hereinafter in this paragraph provided, every person consigning for carriage by any aircraft any dangerous goods
- (i) shall mark distinctly on the outside of the package or container containing such goods their nature, weight and quantity;
 - (ii) shall give to the carrier of the goods written notice of such nature, weight and quantity and of the name and address of the sender thereof by means of an air consignment note coloured red or bearing the words 'dangerous goods' in prominent letters; and
 - (iii) shall in any case where the special permission in writing of the Governor given under paragraph (1) of this Article is necessary for the carriage, attach such permission to the air consignment note:

Provided that:—

- (a) Sub-paragraph (ii) of this paragraph in so far as it requires the air consignment note to be coloured red or bear the words 'dangerous goods' in prominent red letters shall not apply to the case of the carriage of safety cartridges in accordance with proviso (a) to paragraph (1) of this Article, and
 - (b) This paragraph shall not apply to the carriage of equipment or other articles in accordance with proviso (b) to paragraph (1) of this Article.
- (3) In cases to which paragraph (2) of this Article applies and not within proviso (a) to that paragraph the carrier shall notify the person in charge of the aircraft of the nature, weight, and quantity of the goods at or before the time of sending such goods to be carried or taken on board the aircraft.
- (4) In this Article the expression—
- 'Dangerous goods' means any explosive substance and any other goods (whether explosive or not) which by reason of their nature are liable to endanger the safety of the aircraft or persons on board the aircraft;
 - 'Safety cartridges' means cartridges for small arms after firing and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges.
- (5) The provisions of this Article shall be in addition to and not in derogation of the provisions of Article 19 of this Order.

20.—(1) An aerial lighthouse shall not be established or maintained within the Colony, nor the character of the light exhibited therefrom altered, except with the approval of the Governor, and subject to such conditions as he may prescribe:

Aerial
lighthouses.

Provided that, in the case of an aerial lighthouse the light from which would or might be visible from the sea or from any waters over which a general lighthouse authority exercises jurisdiction, such approval shall not be given except with the consent of the general lighthouse authority.

(2) A person shall not wilfully or negligently injure or interfere with any aerial lighthouse established or maintained with the approval of the Governor or any light exhibited from any such lighthouse.

21.—(1) Whenever in the Colony any light is exhibited,

False lights.
[1937. (No. 2)]

(a) which, being in the neighbourhood of an aerodrome, is liable by reason of its glare to endanger aircraft arriving at or departing from the aerodrome; or

(b) which, by reason of its liability to be mistaken for a light proceeding from an aerial lighthouse or for a light or part of a system of lights prescribed for display at or near an aerodrome or for marking an obstruction to air navigation, is liable to endanger aircraft;

the Governor may serve a notice upon the owner of the place where the light is exhibited or upon the person having charge of the light, directing that owner or person within a reasonable time, to be specified in the notice, to take effectual means for extinguishing or for effectually screening the light and for preventing for the future the exhibition of any similar light.

(2) The notice may be served either personally or by post, or by affixing the same in some conspicuous place near to the light to which the notice relates.

(3) If any owner or person on whom a notice is served under this article fails, without reasonable cause, to comply with the directions contained in the notice, he shall be deemed to have failed to comply with this Order.

(4) If any owner or person on whom a notice under this article is served neglects for a period of seven days to extinguish or effectually to screen the light mentioned in the notice, the Governor may enter upon the place where the light is and forthwith extinguish the same, doing no unnecessary damage, and may recover the expenses incurred by him in so doing from the owner or person on whom the notice has been served.

(5) In the case of lights which would or might be visible from the sea or waters over which a general lighthouse authority exercises jurisdiction, the powers of the Governor under this article

shall not be exercised except with the consent of the general light-house authority.

Use of signals,
signs and marks.
[1929.]
[1931.]
[1938.]

22.—(1) In making or receiving signals by wireless telegraphy or other methods of communication, except by visual signals when the Morse Code is not being used, every aircraft possessing the nationality of a Contracting State shall use as its call sign the complete group of five letters which constitutes its nationality and registration marks:

Provided that after communication has been established by means of such call sign the aircraft may employ an abridged call sign consisting—

- (a) in the case of radio-telegraphy of the first and last letters of the complete call sign of five letters;
- (b) in the case of radio-telephony, of the whole or part of the name of the owner of the aircraft followed by the last two letters of the complete call sign of five letters:

Provided also that nothing in this paragraph shall affect the special rules as to signals laid down in Section II of the Fourth Schedule to this Order.

(2) A person in an aircraft or on an aerodrome shall not make any signal prescribed by this Order except for the purposes specified therein, and shall not knowingly make, without lawful authority or excuse (proof whereof shall lie on the accused), any naval, military or air-force signal.

(3) An aircraft other than a State aircraft shall not bear any mark or sign used or appropriated for use by State aircraft.

Civil Air
Ensign.
[1938.]

22A.—(1) Subject as hereinafter provided the Civil Air Ensign established by the Civil Air Ensign Order, 1937, shall be flown on any aircraft or on any ship or boat or on any building or elsewhere within the Colony.

(2) The Civil Air Ensign may be flown (a) on any British aircraft, (b) at any aerodrome situated in the Colony which is licensed under this Order, (c) by the person operating an Air Transport undertaking owning British aircraft upon or in proximity to any building occupied by him as his principal office or place of business, (d) by any person to whom permission in writing is granted for the purpose by the Governor, at such places and subject to such conditions as may be specified in such permission, provided that the Civil Air Ensign shall not be hoisted on board any ship or boat belonging to any British subject or any person under His Majesty's protection without warrant from His Majesty or from the Admiralty.

Arrival and
departure from
the Colony.

23.—(1) The Governor may prescribe points between which aircraft when entering the Colony from abroad or leaving the Colony for abroad shall pass.

(2) If such points are for the time being so prescribed, no aircraft shall enter the Colony from abroad or leave the Colony for abroad except between such points:

Provided that —

- (a) if an aircraft is compelled by accident, stress of weather, or unavoidable cause to enter the Colony from abroad elsewhere than between such points it shall land at the Customs aerodrome, if any, in the Colony nearest to its route; and
- (b) if an aircraft arriving from a place outside the Colony shall land in any place other than a Customs aerodrome, the pilot shall forthwith report to an Officer of Customs and Excise or police constable and shall on demand produce to such officer or police constable the log-book belonging to the aircraft and shall not allow any goods to be unloaded therefrom without the consent of an officer of Customs and Excise and no passenger thereof shall leave the immediate vicinity without the consent of an Officer of Customs and Excise or police constable. If such place of landing shall be an aerodrome, the pilot shall forthwith report the arrival of the aircraft and the place whence it came to the proprietor of the aerodrome, who shall forthwith report the arrival of the aircraft to an officer of Customs and Excise and shall not allow any goods to be unloaded therefrom or any passenger thereof to leave the aerodrome without the consent of such officer.

(3) Any enactments for the time being in force restricting the landing of aliens or any orders made thereunder with respect to persons arriving in or departing from the Colony shall apply to persons arriving or departing by air as if the same were herein set out, with such modifications as are necessary for adapting them to such purpose.

(4) The Governor shall make such regulations for the application of the law relating to Customs to aircraft arriving in or departing from the Colony as may be necessary and not inconsistent with the Convention.

See Customs (Air Navigation) Regulations, *post*.

24. If the Governor is satisfied that any person has, in respect of any British aircraft registered in the Colony, been convicted by a competent court of an offence against the provisions of the Customs law of a contracting State, so far as those provisions are in accordance with Annex H of the Convention, which is set out in Schedule VII to this Order, he may (without prejudice to any other powers conferred upon him by this Order) cancel or suspend the certificate of registration of that aircraft.

Customs provisions to be observed by aircraft flying abroad.

Forgery, etc.,
of documents.

25.—(1) A person shall not—

- (a) forge or fraudulently alter or assist in forging or fraudulently altering, or procure to be forged or fraudulently altered, any licence or certificate required under this Order; or
- (b) make, assist in making, or procure to be made any false representation for the purpose of procuring for himself or any other person the issue, validation, or renewal of any such licence or certificate or the endorsement on a pilot's licence of authority by the Governor to give instruction in flying in accordance with sub-paragraph (c) of paragraph (2) of Article 10A of this Order; or
- (c) fraudulently use any such licence or certificate which has been forged, altered, cancelled, or suspended, or to which he is not entitled; or
- (d) fraudulently lend any such licence or certificate or allow it to be used by any other person.

[1937.]

(2) A person shall not destroy, mutilate, alter, or render illegible any log-book or any entry made therein, or wilfully make or procure or assist in the making of any false or fraudulent entry in or omission from any log-book.

Application to
foreign military
aircraft.

26. A foreign military aircraft shall not fly over or land in the Colony except on the express invitation or with the express permission of His Majesty, or of a Government Department, or of the Governor, but any aircraft so flying or landing on such invitation or with such permission shall be exempt from the provisions of this Order except to such extent as may be specified in the invitation or permission:

Provided that no such invitation or permission shall be necessary in the case of foreign military aircraft accompanying vessels of war visiting the Colony so long as the flight or landing is necessary in connection with the arrival of the aircraft in or their departure from the Colony and such aircraft shall while so accompanying vessels of war as aforesaid be exempt from the provisions of this Order.

Exceptions
to operation
of Order.

27.—(1) Except where otherwise expressly stated, this Order applies to aircraft belonging to or employed in the service of His Majesty, other than military aircraft, but does not apply to any aircraft or to any persons if and to such extent as such aircraft or persons may be excepted from this Order by direction of the Governor;

[1938.]
[1938. (No. 2)]

Provided that, in the case of military aircraft flown by a civilian pilot for the purpose of any test, or used for the purposes of an Auxiliary Air Unit, a Civil flying school, or any other establishment in which instruction in flying is given, where such an aircraft is

not commanded by a person in naval, military or air-force service detailed for the purpose, it shall be necessary to comply with the requirements of the following provisions of this Order, that is to say—

- (i) Article 7 in so far as it relates to the provisions of Schedule IV to this Order;
- (ii) Paragraphs (1), (2) and (4) of Article 10;
- (iii) Article 12; and
- (iv) Article 13.

(2) The Governor may, by a special and temporary authorisation, and subject to such conditions as may be specified, permit the flight within the limits of the colony of an aircraft which does not possess the nationality of a Contracting State or of a State to which proviso (a) to paragraph (1) of Article five of this Order applies:

See for an example of such authorisation P. G. 1937, spl. 2. p. 731.

Provided that an aircraft the flight of which is so permitted as aforesaid shall while flying within the said limits carry a certificate issued either by the Governor or by the competent authority in the State whose nationality the aircraft possesses, stating that permission has been granted and the conditions, if any, subject to which it has been granted.

28.—(1) If an aircraft flies in contravention of, or fails to comply with, this Order or any provision thereof, or if in or in respect of any aircraft any act is committed which is or is deemed to be a contravention of this Order or any provision thereof, the owner or hirer of the aircraft (if other than the Crown) and the pilot or commander thereof shall be deemed to have contravened or, as the case may be, failed to comply with this Order: Penalties.

Provided that—

- (a) it shall be a defence to any proceedings for such contravention of, or failure to comply with this Order if the contravention or failure is proved to have been due to accident, stress of weather or other unavoidable cause; and [1932.]
- (b) It shall be a defence to any proceedings under this Order against the owner, hirer, pilot or commander of an aircraft to prove that the alleged contravention took place without his actual fault or privity.

(2) If any person obstructs or impedes any person acting under the authority of the Secretary of State for Air or the Governor in the exercise of his powers and duties under this Order, such firstmentioned person shall be deemed to have acted in contravention of this Order.

(3) Every person—

- (a) who contravenes or fails to comply with or who is

[1935.]
[1937.]
[1939.]

deemed to have contravened or failed to comply with this Order—

[1935.]

(i) by reason only of a non-compliance with condition (iv) specified in paragraph (1) of Article 4, or condition (iv) specified in paragraph (1) of Article 5, of this Order, or so much of condition (v) specified in paragraph (1) of the last mentioned Article as requires certificates of airworthiness to be carried in aircraft, or

[1937.]

(ii) by reason only of a contravention of or non-compliance with, any of the following provisions of this Order, that is to say, paragraph (1) and (2) of Article 8, Articles 16, 17 and 18, and paragraph 3A of Schedule V, or

[1935.]

(iii) by reason only of a failure to carry in an aircraft such a certificate as is required in relation to that aircraft by the proviso to paragraph (2) of Article 27 of this Order, or

[1935.]

(iv) by virtue of paragraph (5) of Article 29 of this Order,

[1939.]

(b) Omitted.

shall be liable on summary conviction to a fine not exceeding five pounds or, in the case of a second or subsequent conviction for the like offence, to a fine not exceeding ten pounds; but, save as aforesaid, every person who contravenes or fails to comply with any provision of this Order, or who is deemed to have contravened or failed to comply with this Order, shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both such imprisonment and such fine.

(4) Any aircraft which flies or attempts to fly over a prohibited area or enters the Colony in contravention of this Order is liable to be fired on in accordance with the provisions of Schedule VI to this Order.

(5) Any proceedings in respect of contravention of or failure to comply with any Customs Regulations made under Article 23 (4) of this Order shall be deemed to be proceedings for the recovery of a penalty under the enactments of the Colony relating to the Customs.

Power to
cancel,
suspend, or
endorse
licences and
certificates.

29.—(1) Any certificate granted in the Colony under Schedule I, or any licence granted in the Colony under Schedule V to this Order, or the licence of any aerodrome in the Colony, may be cancelled, suspended or endorsed by the Governor on sufficient ground being shown to his satisfaction, after due inquiry and his decision shall be final; and in special cases the Governor may suspend any such licence temporarily and provisionally pending the holding of an inquiry.

(2) Any certificate of airworthiness issued in the Colony

The title AIR was prepared with the assistance of Dr. H. Kitzinger; Adv.

The Text of the law and annotations in this part is as on 31.8.44.

Kindly correct the following errors in your copy of the A. L. P. :-

- p. 157, sec. 6, line 1: Add *of* between *contravention* and *the*.
line 3: substitute *conviction* for *committing*.
- p. 166, footnote (1): Substitute 8 *Ct. L. R.* for 7, *Ct. L. R.*
- p. 186. second para., line 3: after "r. 4": Add: *Repealed by Road Transport Rules (Appendix) P. G. 1944. sup. 2. p. 377.*
- p. 222, last line before PARTY: Substitute *replaced* for *repealed*.
- p. 238, 7th line: Substitute *replaced* for *repealed*.
-