



Ceylon Government Gazette

EXTRAORDINARY.

No. 5,607—SATURDAY, MARCH 11, 1899.

Part II.—Legal and Judicial.

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

PASSED ORDINANCES.

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

No. 1 of 1899.

An Ordinance to amend Ordinance No. 1 of 1897, intituled
“An Ordinance relating to Claims to Forest, Chena,
Waste, and Unoccupied Lands.”

WEST RIDGEWAY.

Preamble.

WHEREAS it is expedient to amend in the particulars hereinafter mentioned the Ordinance No. 1 of 1897, hereinafter referred to as the principal Ordinance: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Section 1
amended.

1 For section 1 of the principal Ordinance the following section shall be substituted:

Government
Agent to publish
notice calling for
claims.

(1) Whenever it shall appear to the government agent of a province or to the assistant government agent of a district that any land or lands situated within his province or district is or are forest, chena, waste, or unoccupied, it shall be lawful for such government agent or assistant government agent to declare by a notice that such land or lands or any of such lands in respect of which no claim is made to him within the period of three months from the date specified in such notice shall be deemed the property of the Crown and may be dealt with on account of the Crown. Provided however that the date specified in such notice shall not be earlier than the date of the first

publication of such notice in the *Government Gazette*, and that two or more lands shall not be included in one notice unless such lands are situated in the same village.

(2) Every notice shall be published in the English, Sinhalese, and Tamil languages six times at least in the *Government Gazette*, and copies of such notices shall be posted on the land or lands appearing in such notice and shall also be affixed to the walls of the several kachcheries and the several courts of the province, including gan-sabhawa courts, within which such land or lands is or are situated, and in such other localities as may secure the greatest possible publicity thereto, and the said notice shall likewise be advertised by beat of tom-tom at such places on or near such land or lands and at such times as the government agent or assistant government agent may direct and order.

(3) Whenever such land or lands is or are more than ten acres in extent, such notice shall be further published once at least in any two of the newspapers published in the Island in the language in which such newspapers are published.

(4) If the government agent or assistant government agent shall have reason to think that any person is interested in such land or lands or in any of such lands, he shall call upon such person not only by general notice as aforesaid, but also by posting a copy of such notice addressed to such person at his last known place of abode.

(5) Every such notice shall be as near as is material in the forms in the schedule hereto, and the production of a copy of the *Government Gazette* purporting to contain such notice shall be received in all courts of law in this island as conclusive proof that such notice has been duly published, posted, affixed, and advertised as hereinbefore required.

Section 2
amended.

Where no claim
is made land to
be declared
property of the
Crown.

2 For section 2 of the principal Ordinance the following section shall be substituted :

(1) If no claim shall be made within the period of three months from the date specified in such notice, the government agent or assistant government agent shall make an order declaring such land or lands or any of such lands to which no claim has been made to be the property of the Crown.

(2) Every such order shall be published in the *Government Gazette* and shall be final and conclusive, subject to the provisions contained in sections 20, 21, and 26 hereof, and the *Government Gazette* containing such order shall be, subject as aforesaid, received in all courts of law in this island as conclusive proof that the land or lands mentioned in the order was or were at the date of such order the property of the Crown.

(3) Provided always that whenever within the said period of three months it shall be brought to the knowledge of the government agent or assistant government agent that some person is interested in any land which is the subject of a notice under section 1, and that such person is then absent from the island and was so at the date of the first publication of such notice in the *Government Gazette*, then and in every such case the government agent or assistant government agent shall not make his order declaring such land to be the property of the Crown until the expiration of a further period of six months, commencing on the expiry of the said period of three months.

Section 3
amended.

Inquiry into
claims.

3 For section 3 of the principal Ordinance the following section shall be substituted :

(1) If in pursuance of the notice published under the provisions of section 1 (a) claim shall be made to any land specified in any notice or to any interest in such land within the period of three months, or in any case in which

such period has been extended under the provisions of sub-section (3) of the preceding section within such extended period, the government agent of the province or assistant government agent of the district in which such land is situated shall forthwith proceed to make inquiry into such claim.

(2) For the purpose of such inquiry the government agent or assistant government agent may exercise the powers conferred on Commissioners appointed under the provisions of Ordinance No. 9 of 1872 for compelling the attendance of witnesses and the production of documents and for administering oaths to all persons who shall be examined before them, provided that the requirements of the proviso to section 2 of that Ordinance shall not be necessary for the purposes of this Ordinance.

Sub-section 1 of section 4 amended.
Procedure in such cases.

4 For section 4 of the principal Ordinance the following shall be substituted :

(1) The government agent or assistant government agent shall call upon the claimant by notice in writing served upon him or left at his last known place of abode, to produce before such government agent or assistant government agent the evidence and documents upon which he may rely in proof of his claim ; if when so called upon the claimant does not appear or does not produce such evidence and documents, the government agent or assistant government agent may then make an order declaring such land to be the property of the Crown, and the provisions of sub-section 2 of section 2 shall apply to such order. If the claimant appears and produces such evidence and documents, the government agent or assistant government agent, after considering the same and making any further inquiry that may appear proper, may either admit the whole or part of such claim or enter into an agreement in writing, which shall be signed by the government agent or assistant government agent and the claimant, for the admission or rejection of any portion of such claim, or for the purchase of any portion of the land which is the subject of such claim, and shall embody such admission or agreement in an order. Provided that in any case in which such land is more than ten acres in extent no such admission shall be made or agreement entered into without the consent of the Governor.

(2) Every such order shall be published in the *Government Gazette* and shall be final and conclusive, and the *Government Gazette* containing such order shall be received in all courts of law in this island as conclusive proof of the admission or agreement entered into under sub-section (1).

Section 12 amended.

5 For section 12 of the principal Ordinance the following section shall be substituted :

Parties may appear by pleader.

At the hearing of every reference under this Ordinance the claimant shall appear personally or by pleader as plaintiff, and the government agent or assistant government agent shall appear personally or by pleader as defendant on behalf of the Crown.

Sub-section 2 of section 18 amended.

6 For sub-section 2 of section 18 of the principal Ordinance the following shall be substituted :

Such commissioner or judge on receiving such affidavit and petition of appeal shall transmit the same together with all proceedings taken by him to the Registrar of the Supreme Court, and such appeal shall have precedence of all other appeals, and the said court shall make such order as the justice of the case may require, and such order shall be duly carried into effect.

Sub-section 1 of section 21 amended.

7 At the end of sub-section 1 of section 21 of the principal Ordinance there shall be inserted the following words :

or otherwise.

Section 22
amended.

Prohibition of
building,
clearing, &c.,
pending
investigation.

8 For section 22 of the principal Ordinance there shall be substituted the following :

(1) After the date of the *Government Gazette* containing the first publication of the notice prescribed in section 1 it shall not be lawful for any person, without the written consent of the government agent or assistant government agent, to enter on any land specified in such notice with intent to establish a right of possession or occupation of such land or to exercise rights of ownership, or to build any house or hut or to form a plantation thereon, or to make clearings for the purpose of cultivating such land or for any other purpose, or to cut or fell any trees upon such land or to open work or to use any mine thereon, until such land has been declared not to be the property of the Crown.

(2) It shall be lawful for the district court upon the complaint of the government agent or assistant government agent, supported by a copy of the *Government Gazette* containing the notice prescribed by section 1 and by affidavit charging any person or persons with having acted in contravention of this section, to issue its summons for the appearance before it of such person or persons and of any other person or persons whom it may be necessary or proper to examine as a witness or witnesses on the hearing of any such complaint, and the said district court shall proceed in a summary way in the presence of such person or persons, or in case of wilful absence of any person against whom any such complaint shall have been laid, then in his absence, to hear and determine such complaint; and in case on the hearing thereof it shall appear by the examination of the complainant or of such person or persons, or other sufficient evidence to the satisfaction of such district court, that such person or persons against whom such complaint shall have been laid hath or have, after the date of first publication in the *Government Gazette* of the notice prescribed in section 1, without the written consent of the government agent or assistant government agent, entered upon or taken possession of the land mentioned or referred to in such complaint, with intent to establish a right of possession or occupation of such land or to exercise rights of ownership or to build any house or hut or to form a plantation thereon or to make clearings for the purpose of cultivating such land or for any other purpose, or to cut or fell any trees upon such land or to open, work, or use any mine thereon, then such district court shall make an order directing such person or persons to deliver up possession of such land together with everything thereon, including all crops whether growing or severed, all minerals, and all buildings and other immovable property upon and affixed to the said land, to some person to be named by the said court; and in case the person or persons against whom any such order shall have been made shall not within seven days after service thereof deliver up possession of the said land and premises pursuant to the said order, or shall afterwards enter upon the said land or premises personally or by his or their assigns, agents, or servants, contrary to such order or in evasion thereof, then and in such case it shall be lawful for such district court to sentence such person or persons to simple or rigorous imprisonment not exceeding six months or to a fine not exceeding one thousand rupees, and to make a further order for the immediate delivery over of the possession of such land and premises to the person named by the said court, and the said court shall thereupon cause possession of such land and premises to be delivered to such person accordingly.

It shall further be lawful for the said district court at the time of passing sentence on such person or persons to order such person or persons to execute a bond, with or without sureties, to abstain from entering upon such land and

premises personally or by his or their assigns, agents, or servants, for such period as the said court thinks fit to fix.

(3) The prohibition imposed by sub-section 1 of this section shall cease in any case in which a reference under section 5 has not been made within six months from the date of a claimant having preferred his claim.

Section 30 added.

9 After section 29 of the principal Ordinance the following section shall be inserted and numbered 30 :

"Land" defined.

30. For the purposes of this Ordinance "land" shall mean an allotment of land the boundaries of which have been defined and delineated by survey.

Irregularities in notices and orders under principal Ordinance cured.

10 No notice purporting to have been published and advertised under the provisions of section 1 of the principal Ordinance, or order purporting to have been made under the provisions of sections 2 and 4 of the said Ordinance prior to the passing of this Ordinance, shall be deemed to be invalid or inoperative by reasons of any irregularity in the publishing, advertising, posting, affixing, or making of such notice or order.

SCHEDULE.

Form of Notice.

(Where more than one Land).

Take notice, that unless within three months from the _____ day of _____ the persons, if any, who claim any interest in the land hereinafter mentioned or in any one or more of such lands, appear before me at _____ and make claim to the said lands or any of them or to some interest therein :

I, _____, government agent of the province (or assistant government agent of _____), in pursuance of the powers in me vested by Ordinance No. 1 of 1897, shall declare by writing under my hand that the said lands, or such of them to which no claim has been made, are the property of the Crown.

Form of Notice.

(Where only one Land.)

Take notice, that unless within three months from the _____ day of _____ the persons, if any, who claim any interest in the land hereinafter mentioned, appear before me at _____ and make claim to the said land or to some interest therein :

I, _____, government agent of the _____ province (or assistant government agent of _____), in pursuance of the powers in me vested by Ordinance No. 1 of 1897, shall declare by writing under my hand that the said land, to which no claim has been made, is the property of the Crown.

Passed in Council the Second day of March, One thousand Eight hundred and Ninety-nine.

H. WHITE,
Clerk to the Council.

Assented to by His Excellency the Governor the Sixth day of March, One thousand Eight hundred and Ninety-nine.

E. NOEL WALKER,
Colonial Secretary.

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

No. 2 of 1899.

An Ordinance to protect Public Servants from Legal Proceedings in respect of certain Liabilities.

WEST RIDGEWAY.

- Preamble.** WHEREAS it is expedient to protect public servants from legal proceedings in respect of certain liabilities: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:
- Short title.** 1 This Ordinance may be cited as "The Public Servants' (Liabilities) Ordinance, 1899."
- Interpretation.** 2 "Public servant" means a person employed in the service of the Government of the colony, or of any municipal council or local board, or of the board of improvement, Nuwara Eliya, or of any provincial or district committee established under the Ordinance No. 10 of 1861.
- "Action" includes legal proceedings and process of every description other than criminal, and includes proceedings in insolvency.
- Actions not to lie against public servants in certain cases.** 3 (1) No action shall be maintained against a public servant—
- (a) Upon any promise, express or implied, to repay money paid or advanced to him or to another person at his request;
 - (b) Upon any promise, express or implied, to be answerable for the debt or default of another person; or
 - (c) Upon any bond, bill of exchange, promissory note, or other security made, drawn, accepted, endorsed, or given by him.
- (2) This section does not apply to the case of a public servant who at the date when the liability sought to be enforced is contracted is in receipt of a salary in regard to his fixed appointment of more than three hundred rupees a month.
- (3) This section does not apply to a liability contracted by a person prior to the date when he became a public servant.
- (4) This section does not apply to any liability contracted before the commencement of this Ordinance.
- (5) This section does not apply to any liability contracted by a public servant to "The Public Service Mutual Provident Association," incorporated under the Ordinance No. 5 of 1891.
- (6) Nothing in this section contained shall affect the right of the holder of any security to bring an action to realize the same.
- Proceedings in contravention of this Ordinance to be void.** 4 All proceedings and documents in or incidental to an action in contravention of this Ordinance shall be void, and where complaint is made by a public servant or by the head of his department that such public servant is dealt with in contravention of this Ordinance by any process, execution, or order issued out of any court, and is made to that court or any court superior to it, the court or some judge thereof shall examine into the complaint and shall, if necessary, discharge such public servant without fee, and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in an action in such court.

Period of
duration of
Ordinance.

5 This Ordinance shall continue in force until the Thirty-first day of December, One thousand Nine hundred and Four, or if the Legislative Council be then in session, until the end of such session.

Passed in Council the Second day of March, One thousand Eight hundred and Ninety-nine.

H. WHITE,
Clerk to the Council.

Assented to by His Excellency the Governor the Sixth day of March, One thousand Eight hundred and Ninety-nine.

E. NOEL WALKER,
Colonial Secretary.

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

No. 3 of 1899.

The Volunteer Amendment Ordinance, 1899.

WEST RIDGEWAY.

Preamble.

WHEREAS it is expedient to amend Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," and "The Volunteer Reserve Ordinance, 1890," in certain particulars: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Volunteer Amendment Ordinance, 1899."

Repeal.

2 Section 11 of Ordinance No. 3 of 1861 is hereby repealed.

Insertion of section
between 1 and 2 of
Ordinance No. 3
of 1861.

3 Between sections 1 and 2 of Ordinance No. 3 of 1861 the following section shall be inserted and numbered 1 a:

Interpretation
clause.

1 a. In this Ordinance, unless the context otherwise requires:

The term "commanding officer of the corps" or "commanding officer of the regiment" means the commandant of the volunteer-force in Ceylon.

Amendment of section
10 of Ordinance No. 3
of 1861.

4 For section 10 of Ordinance No. 3 of 1861 the following shall be substituted:

Inspection.

10. Every volunteer corps shall be liable to be inspected at least once a year by the officer commanding Her Majesty's regular forces, or by a field officer authorized thereto by the Governor.

Amendment of section
13 of Ordinance No. 3
of 1861.

5 For section 13 of Ordinance No. 3 of 1861 the following shall be substituted:

General court
martial.

13. General courts martial shall consist of not less than five commissioned officers of the volunteer force.

Amendment of
section 14 of
Ordinance No. 3
of 1861.

6 For section 14 of Ordinance No. 3 of 1861 the following shall be substituted:

Regimental
court martial.

14. Regimental courts martial may be convened by the commanding officer, and shall consist of not less than three commissioned officers of the force.

Amendment of section 16 of the Ordinance No. 3 of 1861.

Volunteers guilty of military offences in cases of invasion, &c., to be subject to Army Act, 1881.

7 For section 16 of Ordinance No. 3 of 1861 the following shall be substituted :

16. Every member of the volunteer force enrolled according to the provisions of this Ordinance shall for all military offences of which he shall be guilty, when warned for actual duty in cases of actual invasion, or of any appearance of any enemy on the coasts of Ceylon, or of rebellion or insurrection arising or existing within the same, or whenever the volunteer force or any part thereof has been called out by the Governor under the power in that behalf hereinbefore provided, or whilst on actual duty in such cases as aforesaid, be subject to "The Army Act, 1881."

Amendment of section 30 of Ordinance No. 3 of 1861.

Place of deposit for arms, and persons to take care of them provided at public expense.

8 For section 30 of Ordinance No. 3 of 1861 the following shall be substituted :

30. The commanding officer of any corps receiving any arms or accoutrements supplied at the public expense or by subscription or from the funds of the corps may, with the consent of the Governor, appoint proper places for depositing and safe-keeping of the arms and accoutrements of the corps, and proper persons to repair and keep such arms in good condition ; and all reasonable expenses incurred in placing and keeping them clean and in proper repair, order, and condition shall be paid from the General Treasury, upon warrant to be for that purpose issued by the Governor : Provided that it shall be lawful for the Governor to appoint any person or persons to inspect and report upon the state and condition of such arms and accoutrements, and to audit the account, and order such sums as expenses as he shall consider right.

Amendment of section 32 of Ordinance No. 3 of 1861.

Volunteers to give up arms, &c., on quitting or being dismissed the corps.

9 For section 32 of Ordinance No. 3 of 1861 the following shall be substituted :

32. Every person who shall have received any arms, ammunition, accoutrements, or uniform, or other articles belonging to Government, or which shall have been furnished from the public stores or at the public expense, or at the expense of any subscription for providing such articles, or from the funds of the corps, shall, upon his quitting such corps, or upon dismissal therefrom, or whenever he shall be required so to do by the commanding officer, or whenever the said corps shall be disbanded, deliver up to the commanding officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, uniform, or other article, in good order and condition, reasonable wear and tear thereof only excepted, and in default thereof he shall pay such sum of money as shall be adjudged by the commanding officer.

Amendment of section 34 of Ordinance No. 3 of 1861.

Sums due by volunteers how recoverable.

10 For section 34 of Ordinance No. 3 of 1861 the following shall be substituted :

34. If any volunteer shall neglect or refuse, on demand made for that purpose, to pay any sum which he may be ordered to pay by the commanding officer, or which he may be condemned to pay by the sentence of a court martial, or any sum subscribed or required by any rules of such corps to be subscribed by him towards any expenses thereof, in such case any police magistrate residing in or near to the place in which such corps shall be, on application made for that purpose by any commanding or field officer, or adjutant or serjeant-instructor, under any order of the commanding officer of any such corps, may direct such sum to be paid as a fine, on a day to be named in an order to be for that purpose made by such police court and served upon such volunteer ; and in default of his so paying the sum due by him, the police court shall and may proceed to recover the same in such and the same manner as any fine adjudged by police courts against any person is recovered.

Amendment of section 3 of Ordinance No. 16 of 1890.

Proviso.

11 To section 3 of Ordinance No. 16 of 1890 the following proviso shall be added :

Provided that the Governor may in special cases sanction the enrolment in, or appointment to, the volunteer reserve, or the transfer from the active list to the reserve of officers, and men living within a radius of ten miles from the headquarters of a reserve district.

Amendment of section 4 of Ordinance No. 16 of 1890.

12 For section 4 of Ordinance No. 16 of 1890 the following shall be substituted :

4. Every person who desires to be admitted into the volunteer reserve under the regulations hereinafter mentioned shall apply in writing to the adjutant to be duly enrolled as by those regulations provided, and shall upon his enrolment being sanctioned, unless he be transferred direct from the active list to the reserve, take the following oath, or, if he be not a Christian, make the following affirmation, before any justice of the peace having jurisdiction in the place where such oath or affirmation is taken or made :

I, ———, do sincerely promise and swear [*or truly affirm and declare*] that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors according to law, and that I will faithfully serve Her Majesty in Ceylon for the defence thereof against all her enemies and opposers whatever.

Addition of a sub-section to section 6 of Ordinance No. 16 of 1890.

Certificate in case of members of reserve permitted to reside within ten-mile radius

13 To section 6 of Ordinance No. 16 of 1890 the following sub-section shall be added :

(3) In the case of members of the reserve who have been specially permitted to reside within a ten-mile radius from the headquarters of a reserve district, the certificate to be forwarded to the adjutant under sub-section (1) hereof shall be in the form C in the schedule hereto instead of in the form A.

Amendment of section 9 of Ordinance No. 16 of 1890.

14 Section 9 of Ordinance No. 16 of 1890 shall be amended by adding at the end thereof the following words : unless the Governor has specially sanctioned his residing within a ten-mile radius from the headquarters of a reserve district.

Amendment of section 10 of Ordinance No. 16 of 1890.

Efficiency.

15 For section 10 of Ordinance No. 16 of 1890 the following shall be substituted :

10. Every member of the volunteer reserve, unless he be a commissioned officer, must render himself efficient at least once in every three years by attending and going through such course of musketry as shall from time to time be laid down by the commanding officer, unless such member shall be specially exempted by the commanding officer from attending and going through such musketry course.

Amendment of schedule to Ordinance No. 16 of 1890.

16 The schedule hereto is substituted for the schedule to Ordinance No. 16 of 1890.

SCHEDULE.

Form A.

I hereby certify that ———, No. — of the Volunteer Reserve, has been continuously stationed during the last six months at ———, outside a radius of ten miles from ———, the headquarters of the Volunteer Reserve District within which the said ——— resides; that he has had no opportunity of attending the course of musketry laid down for the Volunteer Reserve, and that to the best of my belief he is within the prescribed limits of age, and physically fit for military service.

Given under my hand at ———, the ——— day of ———, 189 —.

Signature ———.

Form B.

I, _____, No. _____ of the Volunteer Reserve, do swear (or solemnly, sincerely, and truly declare and affirm) that during the last six months I have been continuously stationed at _____, outside a radius of ten miles from _____, the headquarters of the Volunteer Reserve District within which I reside; that I have had no opportunity of attending the course of musketry laid down for the Volunteer Reserve, and that I am within the prescribed age, and physically fit for military service.

Sworn (or affirmed) this _____ day of _____, 189 —. Signature _____.

Before me, _____,
Justice of the Peace.

Form C.

I hereby certify that _____, No. _____ of the Volunteer Reserve, has been continuously stationed during the last six months at _____, within a radius of ten miles from _____, the headquarters of the Volunteer Reserve District within which the said _____ resides; that he has had no opportunity of attending the course of musketry laid down for the Volunteer Reserve, and that to the best of my belief he is within the prescribed limits of age, and physically fit for military service.

Given under my hand at _____, the _____ day of _____, 189 —.

Signature _____.

Passed in Council the Second day of March, One thousand Eight hundred and Ninety-nine.

H. WHITE,
Clerk to the Council.

Assented to by His Excellency the Governor the Sixth day of March, One thousand Eight hundred and Ninety-nine.

E. NOEL WALKER,
Colonial Secretary.