



# Ceylon Government Gazette

## EXTRAORDINARY.

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Published by Authority.

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No. 5,440 — TUESDAY, NOVEMBER 24, 1896.

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### Part II.—Legal and Judicial.

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

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#### DRAFT ORDINANCES.

##### MINUTE.

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

An Ordinance to incorporate the Consistory of the Dutch Reformed Church at Wolfendahl, Colombo.

Preamble

WHEREAS in consequence of the prospective withdrawal of State aid to the Dutch Reformed Church at Wolfendahl, Colombo, on the retirement or death of the present chaplain or minister thereof, the consistory of the said church have applied to be incorporated for the purpose of effectually transacting the affairs of the said church according to its constitution as set forth in the schedule hereto, and of controlling, managing, and dealing with the property and funds thereof, and of raising moneys for the purposes of the said church :

And whereas certain immovable property belonging to the said church was by resolution of the said consistory purchased in the name of and conveyed to the treasurer of the funds belonging to the said church, and the funds of the said church have also by resolution of the said consistory been invested in the name of such treasurer :

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

- Consistory of Dutch Reformed Church incorporated. 1 From and after the passing of this Ordinance the members of the consistory of the Dutch Reformed Church at Wolfendahl, Colombo, as described in the schedule hereto, shall be incorporated under the name of "The Consistory of the Reformed Dutch Church at Wolfendahl, Colombo," and by the said name they shall have perpetual succession, and shall and may use a common seal with power to change and alter the same at their pleasure.
- Corporation may sue and be sued. 2 They and their successors by the same name may sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in all and any courts whatsoever, and before any judge, magistrate, or judicial officer within the island, in all manner of actions, suits, complaints, matters, and causes whatsoever.
- May hold movable and immovable property. 3 They and their successors by the name aforesaid shall be able and capable in law of holding all such estate, movable and immovable, as hath been already acquired by them and of having, taking, and holding for ever hereafter other estate, movable and immovable, either by purchase, gift, devise, or legacy to and for the use and benefit of the said church, with full power to sell, mortgage, lease, exchange, or otherwise dispose of and deal with the same.
- All securities for money to hold in name of corporation. 4 And all mortgages and other securities for money, lands, and tenements held in the island in the name of any person or persons as trustee or trustees of the said church, shall be and the same are hereby declared to be transferred and vested in the said "Consistory of the Reformed Dutch Church at Wolfendahl, Colombo," and their successors in the corporate name as fully as if the same had been assigned and transferred by the person or persons, trustee or trustees, in whose name or names the same are now held to the said corporation. And the said corporation shall have full power to assign, transfer, and dispose of all such mortgages and other securities to which they shall be entitled as the said corporation shall think proper.
- Affixing of seal of corporation. 5 The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of the president of the consistory and of either the treasurer or bookkeeper, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.
- Short title. 6 This Ordinance shall be called "The Ordinance for incorporating the Consistory of the Dutch Reformed Church at Wolfendahl, Colombo," and may be cited as such for all purposes.
- To include churches at Bambalapitiya and Maligakanda. 7 For the purposes of this Ordinance the Reformed Dutch Church at Wolfendahl shall be held to include the branch churches at Bambalapitiya and Maligakanda, and any churches to be hereafter erected by the consistory.

#### SCHEDULE.

1. The consistory shall consist of the minister or ministers (the senior of whom shall be the president), four elders, and six deacons, elected from and by the members of the congregation in the manner hereinafter set forth.
2. The nomination for an eldership or a deaconship shall, in the first instance, be made by the consistory then in office, and the name of the member so nominated shall be notified to the members of the congregation from the pulpit on three successive Sundays. If no valid objection, of which the consistory shall be the judge, shall be urged in writing to the election of such member, he shall be duly ordained and installed in office, according to the rites of the church.
3. The term of service of elders and deacons shall be four years. Upon withdrawal they shall be eligible for immediate re-election, but they shall not be eligible for a re-election for the second time until they shall have been out of office for at least twelve months.

4. For the due and efficient discharge of the duties of the consistory, the following offices shall be undertaken by such members of consistory as shall be nominated thereto by their brethren, viz. :

- (1) Scriba.
- (2) Treasurer.
- (3) Bookkeeper.
- (4) Church Warden.
- (5) Director of the necessities for the Sacrament.
- (6) Director of Burial Grounds.

5. Five members of consistory, of whom two shall be elders and three deacons, in addition to the minister when resident in Ceylon, shall constitute a quorum. The president shall have a casting vote in addition to his original vote.

6. Meetings for the transaction of business shall be held at least once a month on a written notice from the scriba ; but the president may at any time summon a meeting for the transaction of business.

7. The notice convening meetings shall specify the business to be transacted, and no business other than that specified shall be entered into.

8. The president, on the requisition of five or more members, shall, within fourteen days of the date of such requisition, call a special meeting for the transaction of such special business as may be specified in the requisition.

9. The consistory shall cause a correct record of the proceedings of each meeting to be kept by the scriba, and the minutes so recorded shall be confirmed and authenticated by the signature of all the members present thereat at the meeting next ensuing.

10. The consistory shall cause proper books of account to be kept. At each monthly meeting, a statement of receipts and expenditure signed jointly by the treasurer and the bookkeeper shall be laid before it, which shall be duly audited by an elder and a deacon deputed for the purpose by the consistory, and finally passed at the ensuing meeting.

11. An annual statement of the receipts and disbursements shall be made up as soon as practicable after the close of each year, which, after being duly audited by an elder and deacon, shall be left in the church for the inspection of members of the congregation for a period of one day, after previous notice shall be given thereof.

12. The control and management of the property and funds of the church shall be vested in the consistory, which shall adopt measures with reference thereto by resolution passed by unanimity or majority of votes.

13. No member of the congregation shall be eligible to be an office bearer if pecuniarily indebted to the church.

14. The consistory may by resolution make such rules for the regulation of their ecclesiastical affairs as to them shall seem fit, provided that nothing be done at variance with the doctrines and discipline of the Dutch Reformed Church.

By His Excellency the Governor's command,

Colonial Secretary's Office,  
Colombo, November 19, 1896.

W. T. TAYLOR,  
Acting Colonial Secretary.

## MINUTE.

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

**An Ordinance relating to Claims to Forest, Chena, Waste, and Unoccupied Lands.**

**Preamble.**

**W**HEREAS it is expedient to make special provision for the speedy adjudication of claims to forest, chena, waste, and unoccupied lands: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Government agent or assistant government agent to publish notice calling for claims.

1 (1) Whenever it shall appear to the government agent of a province or to the assistant government agent of a district that any land situated within his province or district is forest, chena, waste, or unoccupied land, it shall be lawful for such government agent or assistant government agent to declare by a notice in the English, Sinhalese, and Tamil languages, to be published six times at least in the *Government Gazette* and in any two of the local newspapers, and to be posted on such land, and to be affixed in the several courts and in the several kachcheries of the island, that if no claim to such land is made to him within the period of two months from the date of such notice, every such land shall be at the disposal of the Crown, and may be dealt with on account of the Crown.

**Survey.**

(2) If any such land has not been previously surveyed, the government agent or assistant government agent shall at any time after the issue of such notice cause such land to be surveyed for the purposes of the inquiry under this Ordinance.

When no claim is made government agent or assistant government agent to declare the land the property of the Crown.

2 If no claim shall be made within the period of two months from the date of such notice as aforesaid, the government agent or assistant government agent shall make an order declaring such land to be the property of the Crown, and such order shall be final and conclusive.

Provisions for inquiry into claims to land.

3 (1) If any claim shall be preferred to such land, or to any interest in such land, the government agent of the province or assistant government agent of the district in which such land is situated shall, if the claim be preferred within two months of the date of the notice issued under the provisions of section 1, proceed to make inquiry into such claim.

(2) For the purpose of such inquiry the government agent or assistant government agent as aforesaid 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.

Procedure in such cases.

4 The government agent or assistant government agent as aforesaid shall call upon the claimant to produce any evidence or documents upon which he may rely in proof of his claim; and after considering the same, and making any further inquiry that may appear proper, shall dispose of the claim by an order for the admission or rejection of the claim, or may enter, with the consent of the Governor, into an agreement with 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 embody such agreement in an order. Where any agreement has been entered into under this section, the order made in pursuance of such agreement shall be final and conclusive.

Procedure after making of the order of the government agent or assistant government agent.

5 If the government agent or assistant government agent as aforesaid shall order that the claim be rejected, either wholly or in part, he shall cause a copy of such order to be delivered to the claimant, and if such claimant shall not within fourteen days from the delivery to him of such copy give notice in writing to such government agent or assistant government agent as aforesaid, and to the commissioner to

be appointed as hereinafter provided, or in the event of no commissioner being appointed, to the district judge of the district in which such land is situated, that he intends to contest such order, the order shall be final and conclusive. And if such claimant shall not within fourteen days from the delivery of such notice to such commissioner or to such judge institute an action before such commissioner or judge, as the case may be, to establish his claim, such order shall be final and conclusive.

The Governor may within three months order action to be brought to try claim admitted.

6 The Governor, with the advice of the Executive Council, may, within three months after the date on which the claim of any claimant as aforesaid shall have been admitted under this Ordinance by the government agent or assistant government agent as aforesaid, direct an action to be brought to try the claim before the commissioner to be appointed as hereinafter provided, or in the event of no commissioner being appointed, before the district judge of the district in which such land is situated.

Special commissioner for trying claims.

7 It shall be lawful for the Governor, as occasion may require, from time to time to appoint a proper person for any province to be commissioner for the investigation and trial of claims under this Ordinance.

Notice of appointment of commissioners. Claims not cognizable in other courts.

8 Whenever any commissioner is appointed under this Ordinance for any province, notice thereof shall be given by Proclamation, copies of which shall be affixed in the several courts of the island; and from the date of the issue of such Proclamation no other court shall be competent to entertain any claim belonging to the class of claims for the investigation and trial of which such commissioner is appointed.

Special courts where to be held.

9 Every commissioner appointed under this Ordinance shall hold his court at such place or places within the limits of his jurisdiction as shall be by him considered most convenient; and for the purpose of every investigation and trial under the Ordinance, may administer oaths, and shall have and exercise within his province all and every the powers and jurisdiction of a district judge.

Plaintiff and defendant in actions under section 5.

10 (1) In every action instituted under section 5 of this Ordinance the claimant shall appear as plaintiff and the government agent or assistant government agent aforesaid shall appear as defendant on behalf of the Crown.

Plaintiff and defendant in actions under section 6.

(2) In any action ordered to be instituted by the Governor under section 6 of this Ordinance, the Attorney-General shall appear as plaintiff and the claimant shall appear as defendant.

Parties may appear by pleader.

(3) Either party to any action may appear by pleader or by agent.

Proceedings regulated by Civil Procedure Code.

11 In actions instituted under this Ordinance, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Procedure before hearing of action.

12 The commissioner or district judge, as the case may be, shall fix a day for the appearance of the parties and for the hearing of the action, of which due notice shall be given to the parties, their pleaders or agents; and on the day so fixed the parties or their agents shall bring their witnesses into court, together with any documents on which they intend to rely. If either party require the assistance of such commissioner or judge to procure the attendance of a witness on such day, he shall apply to such commissioner or judge in sufficient time before the day fixed for the hearing of the action, and such commissioner or judge shall issue a summons requiring such witness to attend the court on that day. It shall be competent to such commissioner or judge to require the personal attendance of a claimant on the day fixed for the hearing or at any subsequent stage of the action.

Procedure on hearing.

13 On the day fixed for the hearing of the action, or as soon after as may be practicable, the commissioner or district judge, as the case may be, shall proceed to examine the claimant or his agent (when his personal attendance

is not required), and the witnesses of the parties, and upon such examination, and after inspecting the documents of the parties and making any further inquiry that may appear necessary, shall proceed to pass such order in the case as he may consider just and proper.

#### Appeals.

14 (1) Any party to the action who is dissatisfied with the decision or order of the commissioner or district judge, as the case may be, may appeal to the Supreme Court against such order or decision, by lodging within three weeks from the date of such order or decision with such commissioner or district judge a petition of appeal addressed to the Supreme Court, provided such party shall file with the said appeal an affidavit setting out the value of the land with regard to which the order or decision has been given against him.

(2) 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 the said court shall make such order as the justice of the case may require, and such order shall be duly carried into effect.

(3) Stamp duty shall be charged upon every such petition of appeal and upon every such affidavit at the rates specified in part 2 of the schedule B to "The Stamp Ordinance, 1890," for similar instruments in the district courts, and upon subsequent proceedings at the rates specified in the said schedule for appeals from the district courts; and every such appeal shall be dealt with and disposed of in the same manner and subject to the same rules as appeals from district courts are dealt with and disposed of.

Records of cases where to be deposited.

15 The records of cases disposed of by commissioners appointed under this Ordinance or by district judges shall be deposited amongst the records of the district court of the district in which the land, the subject of the claim, is situated.

\* Limitation as to claims.

Provision for such claim if preferred within time.

16 No claim to any land or to compensation or damages in respect of any land declared to be the property of the Crown under the provisions of this Ordinance shall be received after the expiration of one year from the date on which such declaration shall have been made; if within such year any claimant shall prefer a claim to such land or to compensation or damages in respect thereof before the commissioner appointed under this Ordinance for the province in which such land is situated, or in the event of no commissioner being appointed, before the district judge of the district in which such land is situated, and shall show good and sufficient reason for not having preferred his claim to the government agent or assistant government agent as aforesaid within the period limited under section 1 of this Ordinance, such commissioner or judge shall file the claim, making the claimant plaintiff and the government agent or assistant government agent as aforesaid defendant on behalf of the Crown in the action, and the foregoing provisions of this Ordinance shall be applicable to the investigation and trial thereof.

If claim established and land sold, possession not to be given, but compensation.

17 (1) In any case in which the land has been sold, if such commissioner or judge shall be of opinion that the claim of the claimant is established, such commissioner or judge shall not award the claimant possession of the land in dispute, but shall order him to receive from the Crown, by way of compensation, a sum equal to the price at which the land was sold.

If claim established and land not sold, Crown to have option of retaining possession on paying amount awarded.

(2) In any case in which the land shall not have been sold, but shall have been otherwise dealt with on account of the Crown, and such commissioner or judge shall be of opinion that the claim to such land is established, such commissioner or judge shall order that the claimant be placed in possession of the said land.

- Award to be in full satisfaction.
- (3) The amount awarded under sub-section (1) shall be in full satisfaction of the claim of the claimant, and shall bar any future claim on his part in respect of the land claimed.
- Prohibition of building, clearing, &c., pending investigation.
- 18 Whenever a government agent has issued the notice prescribed in section 1 with regard to any land, it shall not be lawful for any person thereafter to acquire any right in or over such land, or to enter therein or thereon, or to build any house or hut, or to form a plantation, 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, until such land has been declared not to be the property of the Crown. Any person acting in contravention of this section shall be guilty of an offence, and liable on conviction to simple or rigorous imprisonment for a term which may extend to three months, or to a fine which may extend to one hundred rupees, or to both.
- Presumption as to forest and waste land.
- 19 For the purposes of this Ordinance :
- (a) All forest, waste, unoccupied, or uncultivated lands, and all chenas and other lands which can be only cultivated after intervals of several years, shall be presumed to be the property of the Crown until the contrary thereof be proved.
- Occupation of a small portion of land not to create presumption of ownership of a large tract of land.
- (b) The occupation by any person of one or more portions or parcels of land shall not be taken as creating a presumption of ownership against the Crown in his favour for any greater extent of land than that actually occupied by him.
- Definition of unoccupied land.
- (c) The term "unoccupied land" includes uncultivated land and all land which at the time of the passing of this Ordinance was not in the actual physical possession of any person or persons, and also all lands which shall not have been in the uninterrupted possession of some person or persons for a period in excess of five years next before notice given by the government agent or assistant government agent under section 1 in respect of the same.
- Application for appointment of guardian or curator.
- 20 In any case in which the claimant is a minor or person of unsound mind, or in which any person shall claim for and on behalf of a minor or a person of unsound mind, the government agent shall apply to the district judge of the district in which such land is situated to appoint a fit person in manner provided by the Civil Procedure Code to represent such minor or person of unsound mind for the purposes of the claim and the investigation and trial thereof.
- Crown rights of disposition of land reserved.
- 21 Nothing in this Ordinance contained shall preclude or prevent the Crown in any case in which no notice has been issued under section 1 in respect of any Crown land from selling, leasing, reserving, disposing, or otherwise dealing with the same, or from instituting in any court an action to recover such land.

By His Excellency the Governor's command,

Colonial Secretary's Office,  
Colombo, November 19, 1896.

W. T. TAYLOR,  
Acting Colonial Secretary.