

No. 27.—1884.

An Ordinance to provide for the due protection of Wells and Artificial Pits in this Colony.

ARTHUR GORDON.

Preamble.

**W**HEREAS it is expedient to provide against accidents arising by reason of wells and artificial pits in this Colony being insufficiently fenced round or otherwise protected: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

1. This Ordinance may be cited as “The Wells and Pits Protection Ordinance, 1884.”

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2. The expression "occupier" means the person in the actual occupation of the land on which any well or artificial pit may be, whether such person is or is not the proprietor of the land, and if there be no one in actual occupation of such land, then the proprietor of such land if in the Colony, and if absent from the Colony, then the duly authorized agent or attorney of such proprietor.

Interpretation clause.

3. The occupier of any land within this Colony on which there may now or at any time hereafter be any well or artificial pit shall, whether he shall have received any such notice as is provided for in section 9 of this Ordinance or not, and whether the said well or artificial pit be in use or abandoned, cause the said well or artificial pit to be securely fenced to the height of two and a-half feet above the level of the ground, unless any such well or artificial pit shall be so securely fenced already.

Wells and pits to be fenced.

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4. All such fencing shall be maintained in an efficient state by the occupier of the premises for the time being.

Fences to be efficiently maintained.

5. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make any rule or rules for each of the purposes hereinafter mentioned, and from time to time to add to, alter, amend or abolish any rule or rules so made.

Governor and Executive Council may make rules under this Ordinance.

6. Any rule or rules so made, added to, altered, or amended, shall be published, or if abolished notice thereof shall be given in the *Government Gazette*, and any such rule or rules shall come into operation, or shall stand abolished, as the case may be, on or from such date as shall be fixed by the Governor, with the advice of the Executive Council.

Rules made by Governor and Executive Council may be altered or amended.

7. The purposes for which rules may be made as provided by sections 5 and 6 of this Ordinance are the following:—

Purposes for which rules may be made.

- (a) The nature of the fencing to be erected round any well or artificial pit.
- (b) The nature and extent of any repairs which may at any time be required to be made to such fenceings.
- (c) The time within which any such fencing or repairs is or are respectively to be erected or carried out.

8. The Governor may appoint one or more persons to be inspectors of wells and pits, and such persons when so appointed shall have authority at all times to proceed to and inspect any well or pit wherever such well or pit may be situate; and every such inspector shall be deemed a public officer within the meaning of that term in the Ceylon Penal Code.

Governor may appoint inspectors of pits and wells.

9. Should any such inspector at any time find that in his opinion any such well or pit is likely to be dangerous to life or limb, he shall in the first instance report such fact to the Government Agent or Assistant Government Agent of the district wherein such well or pit may be, and if such Government Agent or Assistant Government Agent shall after enquiry concur in the opinion of the inspector and notify his concurrence to the inspector, the inspector shall thereupon give notice in writing to the occupier of the land on which such well or pit may be to duly fence it within

Inspector may order pits and wells to be fenced and fences repaired.

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such time as such inspector may deem reasonable ; and if in the opinion of such inspector any repairs are required to the fencing of any such well or pit, he shall give a similar notice to have such repairs completed by or before a certain date.

Occupiers failing to fence or repair when required to be subject to costs of the same being carried out.

10. Should any occupier upon whom any such notice shall have been served (and the posting of a notice to the usual place of abode of such occupier shall be *prima facie* evidence that such notice reached such occupier) fail to erect such fencing or to make such repairs as shall be required by such notice, the same may be ordered to be done by the inspector, and the costs thereof and in connection therewith shall be recoverable from the occupier who was called upon to carry out the same, and who shall, whether called upon to pay any such costs or not, be nevertheless liable to such penalty as may be prescribed for the breach of any provision of, or any rule made under, this Ordinance.

When no proprietor found, fencing or repairs to be made and land sold after notice to pay costs.

11. Should it not be possible to ascertain who is the proprietor of any land whereon a well or artificial pit may be required to be fenced, or the fencing thereof may be required to be repaired, it shall be lawful for an inspector under this Ordinance to cause the necessary fencing or repairs to be made, or to cause the well or artificial pit to be filled in, and by a notice to be published not less than three times in one of the English newspapers of this colony, with an interval of one week at least between each publication, to declare that unless the costs of such fencing or repairs or filling in be paid within a certain time by the proprietor of such land, which time shall be specified in such written notice, that the land on which such well or artificial pit may be will be seized, and such portion thereof as it may be necessary to sell to cover such costs together with the costs of such seizure and of the sale hereinafter mentioned, shall be sold by public auction by the Government Agent or Assistant Government Agent of the district in which such land is situated, who is hereby authorized to seize and sell the same. Provided that should any balance remain in the hands of the Government Agent or Assistant Government Agent after such expenses are satisfied, such balance may be paid to the late proprietor of the land on which such well or artificial pit may be, if claimed within two years from the time of the sale thereof.

Crown may purchase land sold under this Ordinance.

12. Whenever any immovable property is purchased under the provisions of this Ordinance, it shall be lawful for the Government Agent or Assistant Government Agent selling any such property under this Ordinance to bid for and purchase the same on behalf of the Crown. A certificate substantially in the form A. or B. in the schedule to this Ordinance, as the case may be, signed by the Government Agent or Assistant Government Agent, shall vest the property sold absolutely in the purchaser, or in the Crown if purchased on behalf of the Crown, free from all incumbrances, and such certificate shall be received in the courts of justice of this colony as conclusive evidence of the title of the purchaser to such immovable property.

Penalties for breaches of Ordinance or

13. Every occupier who shall commit a breach of any obligation imposed by this Ordinance, or a breach of any rule proclaimed under the provisions of this Ordinance, shall be deemed guilty of

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an offence punishable by a fine which may extend to Rs. 50, or by imprisonment with or without hard labour which may extend to three months.

14. Any occupier who feels aggrieved with any requisition made upon him to fence or repair the fencing of any pit or well under this Ordinance may, within fourteen days of receiving such notice, appeal to the Governor in Executive Council, who shall determine whether such fencing or repairs should or should not be carried out.

15. The cost of erecting any such fencing or carrying out any such repairs as is or are referred to in this Ordinance shall be borne in the first instance by the occupier, who shall be entitled to deduct the same from any rent that may be due from him to the proprietor of the land whereon such fencing or repairs is or are carried out, or to sue such proprietor for the same as money paid to his use.

16. "Regulation No. 26 of 1822, for obliging possessors of wells to raise the walls to a sufficient height to secure persons from danger of accidentally falling in" is hereby repealed: Provided that this repeal shall not affect the past operation of the said regulation, nor any penalty, forfeiture, or punishment incurred thereunder.

17. Nothing in this Ordinance shall affect the provisions of section 80 of "The Police Ordinance, 1865," and any prosecution under that section may take place as if this Ordinance had not been passed: Provided that no person shall be convicted under such section and under this Ordinance on the same facts.

rules framed under it.

Occupiers feeling aggrieved at being required to erect or repair fence may appeal to the Governor in Executive Council.

Occupier may deduct cost of fence or repair thereof from rent, if due to proprietor, or may sue proprietor for amount.

Regulation No. 26 of 1822 repealed.

This Ordinance not to affect section 80 of "The Police Ordinance, 1865."

## SCHEDULE A.

WHEREAS the sum of Rs. — was due to our Sovereign Lady the Queen for the costs of fencing [or repairs to fencing or the filling in] of the [wells or pits as the case may be], on the land hereinafter more particularly mentioned and described, and a further sum of Rs. — was likewise due for costs in connection with the same, which said sums have not been paid by the person liable therefor: And whereas the said land was seized in conformity with "The Wells and Pits Protection Ordinance, 1884," and sold also in conformity therewith on the — day of — and the same was purchased by [here insert name of purchaser] for the sum of Rs. —, which have been duly paid by the said —:

Now know ye that I, — [Government Agent or Assistant Government Agent, as the case may be], by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit, [here describe the property with special accuracy as to boundaries] has been sold to and purchased by the said — for the sum of Rs. —, which said sum has been duly paid as aforesaid, and that the said premises are and shall henceforward be vested in the said purchaser, his heirs, executors, administrators and assigns free of all encumbrances.

Given under my hand at — — — — — this — day of — — — — —, 188 —.

(Signed) —  
Government Agent,  
[or Assistant Government Agent.]

## SCHEDULE B.

WHEREAS the sum of Rs. — was due to Our Sovereign Lady the Queen for the costs of fencing [or repairs to fencing or the filling in] of the [wells or pits, as the case may be], on the land — hereinafter more particularly mentioned and described, and a further sum of Rs. — was likewise due for costs incurred in the seizure and sale of the said land, and whereas the said sums have not been paid by the person liable therefor, and whereas the aforesaid land was seized in conformity with "The Wells and Pits Protection Ordinance, 1884," and sold also in conformity therewith on the — day of — and the same was purchased by — for and on behalf of Our Sovereign Lady the Queen for the sum of Rs. —, which has been duly credited to Our said Lady the Queen in [part or full, as the case may be] satisfaction of the costs of [fencing or repairs to fencing or of the filling in] of the [wells or pits, as the case may be] aforesaid, and of the seizure and sale of the said land:

Now know ye that I, —, Government Agent, [or Assistant Government Agent, as the case may be] by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit, [here describe the property with special accuracy as to boundaries], has been sold to and purchased by the said — for and on behalf of Our said Lady the Queen for the sum of Rs. —, which said sum has been duly credited to Our said Lady the Queen as aforesaid, and that the said premises are and shall henceforward be vested in Our said Lady the Queen, Her Heirs and Successors, free of all encumbrances.

Given under my hand at — — this — day of — 188 —.

(Signed) —  
Government Agent.  
[or Assistant Government Agent.]

Passed in Council the Twenty-sixth day of November, One thousand Eight hundred and Eighty-four.

R. H. SINCLAIR,  
Acting Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-ninth day of November, One thousand Eight hundred and Eighty-four.

JOHN F. DICKSON,  
Acting Colonial Secretary.

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