

An Ordinance to facilitate the administration of Village Communities, and to provide for the establishment of Village Tribunals.

WHEREAS it is expedient to facilitate the administration of Village Communities, and to provide for the establishment of Village Tribunals, with a view to diminish the expense of litigation in petty cases, and to promote the speedy adjustment of such cases: **IT IS HEREBY ENACTED BY THE GOVERNOR OF CEYLON**, with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

I.—Preliminary.

1. THIS Ordinance may be cited for all purposes as "*The Village Communities Ordinance, 1871.*"

Short title.

2. THIS Ordinance shall come into effect from the date of the passing thereof.

Commencement of Ordinance.

3. THE following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

Interpretation clause.

THE expression "Government Agent," shall include the Assistant Government Agent of a District, but not the Assistant to the Government Agent for the Province.

"FISCAL" shall include Deputy Fiscals within the Province of the Fiscal.

"NATIVES," shall mean those resident in the country other than persons commonly known as Europeans, or persons commonly known as Burghers.

"CHIEF Headman," shall mean the Ratamahatmaya, Mudaliyar, Manayakar or Vanniya of a Division; and "Chief Headman's Division," shall mean the extent of country under the supervision of such "Chief Headman."

II.—Divisions and Sub-Divisions.

4. IT shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation to be by him for that purpose issued, to declare, from time to time, as he may think desirable, that any Chief Headman's division, or part thereof, shall be brought, from a time to be named therein, within the operation of this Ordinance. On such Proclamation being issued, the said division or part thereof shall become liable to the provisions of this Ordinance, and the inhabitants thereof shall be entitled to exercise the powers and privileges hereby conferred upon them.

Governor may bring any division within this Ordinance.

5. EVERY Chief Headman's division, or part thereof, so brought within the operation of this Ordinance, shall be sub-divided into villages or convenient groups of villages in such manner as the Governor, with the advice of the Executive Council, shall appoint. It shall be lawful for the Governor, with the like advice, from time to time to alter and amend such sub-division.

Sub-division of Chief Headman's division.

III.—Rules.

6. IT shall be lawful for the inhabitants of any sub-division, so brought within the operation of this Ordinance, to make, subject to provisions hereinafter contained, such Rules as they may deem expedient for any of the following purposes:—

Inhabitants may make Rules.

- (1.) FOR the construction, regulation, and protection of village paths, bridges, édanđas, ambalams, madams, spouts, wells, watering and bathing places, fords and ferries, markets, places for slaughter of cattle, sheep or swine, grounds for the burial or burning of the dead, and for the conservancy of forest springs and water-courses.

- (2.) FOR constructing and repairing school-rooms for the education of boys and girls, and for securing their attendance at school.
- (3.) FOR regulating fisheries according to local customs.
- (4.) FOR taking care of waste and other lands set aside for the purposes of the pasturage of cattle or for any other common purpose.
- (5.) FOR breeding, registering, and branding cattle, and for preventing cattle trespass, cattle disease, and cattle stealing.
- (6.) FOR the putting up and preservation of land boundaries and fences.
- (7.) FOR the prevention and abatement of nuisances.
- (8.) FOR the prevention of the use of abusive language.
- (9.) FOR preventing accidents connected with toddy-drawing, and the periodical inspection of the ropes and other appliances used for that purpose.
- (10.) FOR preventing accidents by the setting of spring guns.
- (11.) FOR the prevention of gambling, cock-fighting, and cart-racing on public thoroughfares.
- (12.) FOR determining the number of Councillors to be associated with the President in the trial of cases in any sub-division.
- (13.) FOR the enforcement of ancient customs as regards cultivation, and for any other purpose connected with or relating to purely village affairs.

Rules, if approved by Government, shall be valid.

7. THE Rules so prepared by the inhabitants of any sub-division shall be forthwith transmitted, through the Government Agent of the Province, to the Governor, for the approval, or disallowance thereof, of the Governor, by and with the advice of the Executive Council, and such of the Rules as shall be approved shall be published in the *Government Gazette*, and shall thereupon become as legal, valid, and effectual as if the same had been inserted herein. The Government Agent shall also take steps to cause the Rules to be proclaimed in the village or group of villages subject to their operation, in such manner as shall secure the greatest publicity thereto, and to serve the residents with copies thereof in the native language free of cost.

Rules may be added to, amended, or repealed.

8. IT shall be lawful for the inhabitants of such sub-division, subject to the provisions herein contained, from time to time, to add to, amend, or repeal the existing Rules, or any of them, or any part of any of them, provided that the said additions, amendments, or repealing provisions, as the case may be, shall be in all respects dealt with and decided upon in the same manner as is herein directed and provided with respect to the original Rules.

Rules to be binding upon all, and judicial notice to be taken thereof.

9. SUCH Rules, when published in the *Gazette*, shall be binding upon and be observed by all parties subject to their operation, and all Courts, Judges, and Magistrates shall take judicial notice thereof.

Fines for the breach of Rules.

10. THE inhabitants of any such sub-division may, by the Rules so to be made, impose such reasonable fines as they think fit, not exceeding Ten Rupees, for each breach of such Rules, and in case of a continued breach, further fines, not exceeding Five Rupees, for each day such breach is continued, after notice to the offender to abstain from such breach.

IV.—Meetings and Village Committees.

Public meeting of inhabitants to be called, for the purpose of making Rules.

11. FOR the purpose of making Rules as above prescribed, or whenever such meeting shall be necessary, the Government Agent of the Province may, whenever to him it shall appear advisable, or shall, upon a requisition signed by not less than Ten inhabitants of any village or group forming a sub-division, call a public meeting of the inhabitants of such sub-division. PROVIDED that, in case the extent of any group of villages should render more meetings than one necessary, the Government Agent may hold meetings at such places as he may deem desirable. The Government Agent shall, one month at least before the day of holding any such meeting or meetings, cause notices to be published throughout such sub-division, in such manner as shall appear to him best adapted for giving the greatest publicity thereto, of the day and place appointed for holding such meeting or meetings, and of the object for which the same are to be held; and shall, in such notices, call upon the inhabitants to attend in person, at such meeting or meetings, for the purpose aforesaid. The Government Agent or person presiding shall have power to adjourn any meeting once or oftener, if need be.

Proviso.

Public notice of such meeting.

Power to adjourn.

12. EVERY meeting so convened shall be held at the time and place appointed in the presence of the Government Agent, or any other person authorized in writing by him, and at every such meeting, every male inhabitant of the village, or group of villages as aforesaid, above the age of twenty-one years, and who shall not have been convicted, within five years before the date of the meeting, of theft, fraud, forgery, perjury, or of any infamous crime whatever, who shall be present thereat, shall be entitled to vote. It shall be the duty of the Government Agent, or of the person presiding, to explain to the persons assembled at the meeting the provisions of this Ordinance, and the purpose for which the meeting was convened. And such Government Agent or person presiding shall enter, or cause to be entered, in the minutes of such meeting, the questions or resolutions proposed thereat, and the number of votes given for and against the same, and shall sign the said minutes, and publicly declare the result of the votes given thereat; and the said minutes shall be deposited and preserved in the Provincial or District Kachchéri, as may be most convenient, and copies thereof shall be transmitted by the Government Agent to the Government.

13. IT shall be lawful for the inhabitants of any sub-division, at the first or any subsequent meeting, to elect a Committee of not less than six men, and if they see fit to do so, to delegate to such Committee the power of making Rules conferred on such inhabitants by the 6th Section of this Ordinance. It shall be the duty of such Committee to make Rules, subject to the provisions of this Ordinance (if the power to make Rules be delegated to them as aforesaid), and the same from time to time to amend, alter, and repeal, to enforce the observance of those Rules, and otherwise to exercise such powers as may be conferred on them by such Rules.

14. NO person shall be qualified to be elected as a member of Committee who shall not be upwards of twenty-five years of age, or who shall not be possessed of real property, in his own right or in that of his wife, worth more than Two Hundred Rupees, and who shall have been convicted of theft, fraud, forgery, perjury, or of any infamous crime, or who shall have been dismissed from the Public Service for misconduct.

15. THE first Committee elected under this Ordinance shall go out of office on the last day of March of the third year from their election, and in place of such Committee so going out of office, a like number of other Committee men, to be elected as hereinafter provided, shall come into office and remain in office for the next ensuing three years; and at the expiration of such period of three years, shall in like manner go out of office, and be succeeded by other Committee men for a like term of three years, and so on during the continuance of this Ordinance. PROVIDED that any of such out-going Committee men shall be re-eligible and may be re-elected, and, in such case, continue to act and remain in office, anything herein contained to the contrary notwithstanding.

16. ON any day to be fixed by the Government Agent within three months of the day on which any such term shall expire, a meeting shall be holden for the election of Committee men for three years next succeeding, reckoned from the First day of April next following the day of such election, and such election shall proceed in such manner, and be subject, so far as the same are applicable, to such conditions as are hereinbefore provided for the election of the Committee.

17. ANY member of a Committee who shall be absent from the village for more than three months at one time, or shall be adjudicated an insolvent, or who shall be convicted of any infamous crime, or shall become incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease, shall, *ipso facto*, vacate his office; and in case any person elected a member of Committee shall die, or become disqualified, or vacate his office in manner aforesaid, or shall resign or refuse to accept the office of a member of Committee, or, in case of any casual vacancy happening in any manner whatever in any such office, the remaining members of Committee shall elect a person to fill up the vacancy, and the person then elected shall serve until the next general election of Committee men.

18. IF at any meeting any question shall be raised as to the right of any person to vote or to be elected, the Government Agent or person presiding shall then and there make such enquiry as he may deem requisite, and declare whether or not such person has the right of voting, or is eligible to be elected or not; and the decision so made shall be final. And an entry shall be made in the minutes of such meeting of any such question, and of the decision thereon.

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Proceedings at such meeting.

Qualification of voter.

Inhabitants may elect Village Committee.

Duty of such Committee.

Qualification of Committee men.

Term of office of Committee men.

Meeting for election of intending Committee men.

Vacancies how to be filled up

Objections to voter how disposed of.

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Majority shall decide.

19. ALL questions or resolutions shall be determined by a majority of votes. In case of equality of votes, the Chairman shall have a casting vote, in addition to his original vote.

V.—Village Tribunals.

Establishment of Village tribunals and appointment of Presidents.

20. IT shall be lawful for the Governor, with the advice of the Executive Council, to establish Village tribunals in each village or group in any Chief Headman's division, or part thereof, brought under the operation of this Ordinance, and to appoint from time to time a President for each Chief Headman's division, and to allow, with the like advice, reasonable remuneration to be paid to him out of the general revenue, and any person so appointed at pleasure to remove, and to substitute another in his stead. Every such President shall, before he shall begin to execute the duties of his office, take and subscribe the Oath of Allegiance and Judicial Oath, in form set forth in the Ordinance No. 7 of 1869 or any other Ordinance to be hereafter, for that purpose, enacted. Such President shall have power and jurisdiction, assisted by Councillors as hereinafter prescribed, to try cases hereafter specified. The number of Councillors to be associated with the President in the trial of cases shall be five, unless a different number shall be prescribed by the Rules made for the sub-division. No person shall be qualified to be associated with the President as such Councillor who shall not possess the qualifications prescribed for Committee men by section 14.

Oath.

Power of President.

Village tribunals to exercise jurisdiction in certain matters, Civil and Criminal.

21. THE President, assisted by Councillors, as hereinbefore prescribed, shall sit in open Court at such times and places within each sub-division as the Government Agent shall from time to time prescribe, to try breaches of any Rules made by the inhabitants of the sub-division under the authority of Section 6 (if the inhabitants shall have availed themselves of this privilege), and to exercise Civil and Criminal jurisdiction in the cases hereinafter described, in which both parties are Natives, or in cases in which both the parties thereto, whether Natives or not, shall, by consent in writing, in such form as shall be prescribed by Rules to be made under the 30th Section, expressly refer to be tried and decided by them :—

Civil.

- (1.) ALL cases in which the debt, damage, or demand shall not exceed Twenty Rupees, and the party defendant is a resident within the sub-division, or in which the cause of action shall have arisen, wholly or as to any part, within such sub-division; and also all actions in which the title to, interest in, or right to the possession of any land or immoveable property shall be in dispute, provided the value of such land or immoveable property, or of the particular share, right, or interest in dispute in such action, shall not exceed Twenty Rupees, and the same or any part thereof is situate in such sub-division.
- (2.) ALL cases whatever involving debt or damage not exceeding One Hundred Rupees, or claim to land or immoveable property in which the land or interest in dispute shall not exceed One Hundred Rupees in value, which the parties thereto shall, by consent in writing, in such form as shall be prescribed by Rules to be made under Section 30, expressly refer to such tribunal, to be tried and decided by them.

Criminal.

- (1.) PETTY assaults,—that is to say, assaults which are punishable by law or custom by no higher punishment than fine exceeding Twenty Rupees or imprisonment exceeding Two weeks.
- (2.) PETTY thefts,—that is to say, thefts where the property stolen does not exceed the value of Twenty Rupees, or where the theft is not preceded or accompanied by violence to the person, and which are punishable by law or custom by no higher punishment than fine exceeding Twenty Rupees or imprisonment exceeding Two weeks.
- (3.) MALICIOUS injury to property or boundaries, where the damage does not exceed Twenty Rupees.
- (4.) CATTLE trespass under the Ordinance No. 2 of 1835, where the damage does not exceed Twenty Rupees.

(5.) MAINTENANCE cases under the third section of the Vagrant Ordinance, No. 4 of 1841, where the paternity is not denied.

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PROVIDED however, as follows:—

- (1.) THAT the above offences shall have been committed, wholly or in part, within the sub-division.
- (2.) THAT it shall be lawful for the President and Councillors before whom any case, civil or criminal, shall be instituted, or by whom it shall be partially tried, to refer the parties to the Court of Requests or Police Court having jurisdiction over the sub-division, if it shall appear to them that the case is one which from its circumstances may more properly be prosecuted before the higher tribunal.
- (3.) THAT it shall be lawful for the Queen's Advocate, or for any Deputy Queen's Advocate having jurisdiction over the sub-division, in any criminal case, or for any Government Agent having jurisdiction over the sub-division in any case, civil or criminal, to stop the further hearing of such case before a Village tribunal, and to direct it to be tried by the Police Court or Court of Requests.
- (4.) THAT no case, civil or criminal, shall be brought before the Village tribunal in which the Crown is interested as a party, or which is instituted for the protection of the revenue.

22. WHENEVER after the enactment of this Ordinance, it shall be necessary in any Irrigation District under "The Paddy Cultivation Ordinance, 1867," to convene a Village Council to try breaches of Rules made under the said Paddy Cultivation Ordinance, and a Village tribunal shall have been established under the authority of this Ordinance for the sub-division in which such breach shall have been committed, the Government Agent may refer the case to be tried by such Village tribunal instead of by the Village Councils as prescribed in that enactment. And such tribunals shall have jurisdiction to try such cases and to dispose of them in the manner provided by the said Paddy Cultivation Ordinance.

Breaches of Irrigation Rules may be tried under this Ordinance.

23. THE Councillors shall be selected for each case by lot, according to Rules to be made for such purpose under Section 30, and shall be subject to such provisions as to liability to be challenged as shall be prescribed by such Rules. It will be the duty of the President and Councillors, when any case shall be brought before them, to endeavour by all lawful means to bring the litigant parties to an amicable settlement, and to abate, prevent, or remove, with their consent, the real cause of quarrel between them. But if the parties will not agree to such settlement, the Court shall then proceed to hear evidence and to determine the case. The Councillors shall first express their opinion on the points arising for adjudication, and the President shall thereupon express his. PROVIDED that in case of any difference of opinion between the President and the Councillors, or any of them, the opinion of such President shall prevail, and shall be taken as the decision in the case; but in every such case a record shall be made of such difference of opinion.

The choice, &c., of Councillors to be associated with the President at the trial of each case.

Proviso in case of difference of opinion between President and Councillors.

24. THE Village tribunal shall have power to punish, by fine not exceeding Twenty Rupees, any person convicted before it of any crime or offence, or of the breach of any Rule, according to the nature of each case.

Punishments which may be awarded by such tribunals.

25. THE jurisdiction, civil and criminal, conferred on the tribunals hereby created, shall, as respects the Natives of the sub-divisions in which they are established, and subject to the Provisos in Section 21, so long as such sub-division remains subject to the operation of this Ordinance, be exclusive, and shall not be exercised by any other tribunal, on any plea or pretext whatsoever. And, in order to prevent the jurisdiction of these tribunals being evaded, it shall be the duty of any Court, civil or criminal, and of any Justice of the Peace, whenever it shall appear to them that any case brought before them is one properly cognizable by the Village tribunal established in any place, (and it shall be competent to a Commissioner of Court of Requests, Police Magistrate, or Justice of the Peace, to examine the parties at any stage of the case, in order to ascertain this,) to stop the further progress of such case, and to refer the parties to the Village tribunals, and to condemn the parties in costs as to such Court shall seem fit.

Jurisdiction to be exclusive.

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President may issue process for the apprehension of offenders.

Service of Process.

President may administer oaths.

Reference of issues by District Courts and Courts of Requests.

Judgment and sentences of Village tribunals, how enforced.

Rules of procedure for the Village tribunals.

Forms summary.

26. IT shall be lawful for any President of any division, on receiving information on oath of the commission of any serious crime or offence within his jurisdiction, and triable before the District or Supreme Court, to issue summons or warrant, as he may deem the same necessary, for the apprehension of the offender, wherever he may be found, and to report the same to the nearest Justice of the Peace having jurisdiction over the district, and to cause the offender to be taken before such Justice. Such process may be entrusted for service to any person named therein, and shall have force, and be in every respect treated and dealt with as if it had been issued by a Justice of the Peace, and the person named as the server thereof shall be entitled to serve such process, and shall, for that purpose, have all the powers and protection belonging to duly authorised process servers by law.

27. IT shall be lawful for any President, for the purposes of the jurisdiction and duties hereby conferred upon him, and he is hereby authorised and required, to administer oath according to law, and if, upon such oath, any person making the same shall wilfully and corruptly give false evidence, every person so offending shall be subject to the pains and penalties of perjury.

28. IT shall be competent to any District Court or Court of Requests in which any case shall be pending from any sub-division in which a Village tribunal shall be established, with the consent of all the parties to the suit, expressed in writing but not otherwise, to refer to the said Village tribunal any issue of disputed boundary or encroachment, or any case in which an inspection of the premises and examination of witnesses at the spot are likely to conduce to the ends of justice, and to require such tribunal to inquire into such issue and case, and report thereon to such District Court or Court of Requests; and such District Court or Court of Requests shall (on receipt of such report, with the evidence upon which it is founded) proceed to determine and decide such case, with or without further evidence, as to it shall seem expedient.

29. THE judgment pronounced by the Village tribunals in civil cases shall, on application of the parties, be enforced by execution against the property of the party condemned therein, to be made by the Fiscal having jurisdiction over the sub-division. In criminal cases, sentences condemning any person to pay a fine shall be enforced in the same way that Police Courts enforce the payment of fines imposed by them.

30. IT shall be lawful for the Governor, with the advice of the Executive Council, from time to time, to make Rules (subject to the provisions of this Ordinance, and not inconsistent therewith) to be observed by the tribunals hereby created, touching and concerning the following matters:—

- (1.) THE form and manner of proceeding to be observed in cases before them,
- (2.) THE process to be issued by them, and the mode of enforcing the same.
- (3.) THE execution of judgments pronounced by them.
- (4.) THE form and mode of prosecuting applications for relief.
- (5.) THE summoning and empannelling of Councillors, and regulations respecting them.
- (6.) THE form and mode of giving jurisdiction under Section 21, Article 2, in cases not ordinarily triable by Village tribunals.
- (7.) ALL such general Rules as may be necessary to give effect to the provisions of this Ordinance.

And such Rules from time to time to repeal, alter, or amend, as to him shall seem necessary. Such Rules shall be published in the English and native languages in the *Government Gazette*, and shall thereupon become as legal, valid, and effectual, and shall be binding upon, and be observed by all, and be taken judicial notice of, as if the same had been inserted therein. Subject to these Rules, the proceedings of these tribunals shall be conducted in the native language, and shall be summary, and free from the formalities of judicial proceedings, and it shall be the duty of such tribunals to do substantial justice in all questions coming before them, without regard to matters of form; and no Advocate, Proctor, Agent or other person (excepting husbands for their wives, guardians and curators for minors and wards, and agents doing business in the sub-division for absent principals) shall be permitted to appear on behalf of any party in any case, before such tribunals.

31. IF in the course of any trial before the Village tribunal it shall appear that the case under trial is, from its nature or magnitude, beyond the jurisdiction of such tribunal, the President shall forthwith stop the trial, and order that the case be transferred to the proper Court having jurisdiction to try the same.

32. IT shall be the duty of the President of any Village tribunal to report weekly all cases tried before such tribunal to the Kachchéri to which the sub-division belongs, and to forward the journals of proceedings taken by him to the Government Agent, to be filed of record in his Kachchéri. The Government Agent shall be empowered to sit with the President and Councillors, and observe their proceedings, and generally, from time to time, to report on such proceedings to the Governor. And it shall be competent for the Government Agent to take action in any case in which any parties thereto may apply to him for relief, and to direct further enquiry thereof, or to order a new trial or further evidence, or to alter, amend, modify, or reverse the decision therein. PROVIDED that nothing herein contained shall be deemed to affect the right of any person feeling aggrieved by the decision of such tribunal, to apply to the Governor by petition, if he should fail to obtain relief in the first instance from the said Government Agent; and it shall be lawful for the Governor, with the advice of the Executive Council, to direct further inquiry, or to order a new trial or further evidence, or to alter, amend, modify, or reverse the decision, if he shall see fit, with the said advice, to do so.

VI.—Miscellaneous.

33. IT shall be lawful for the Governor, with the advice of the Executive Council, to dismiss any President who shall appear to him to be unworthy of his post, and such President so dismissed shall be disqualified to hold any office or post in the Public Service, except he be expressly rehabilitated by the Governor, with the advice aforesaid.

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Where charge is beyond the jurisdiction of the Village tribunal, the President should refer it to the competent Court.
Reports of cases to be made to Government Agents.

Governor may dismiss the President.

34. IT shall be lawful for the Governor, with the advice of the Executive Council, to withdraw, for any stated time, from any village, the right to enjoy the benefits of this Ordinance, if it shall appear to the Governor, with the advice aforesaid, that the inhabitants of such village have abused their powers, or are unworthy or incapable of exercising the same justly.

Governor may disfranchise any division.

35. IT shall be competent for the President and Councillors to direct such portion of any fine as it shall deem fit, to be paid to the person injured or aggrieved by the act or omission in respect of which such penalty has been imposed (on condition that such person, if he shall accept the same, shall not have or maintain any suit for the recovery of damages for the loss or injury sustained by him by reason of such act or omission), and such other portion thereof as it shall deem fit to the persons, if any, employed to do the work which ought to have been done, or to repair the mischief done by the defendant. All fines paid or recovered under the award of the Village tribunal shall be deposited with the Government Agent, to be by him appropriated in the manner prescribed by the Village tribunal as aforesaid; the balance, if any, shall be applied to the payment of such necessary expenses of carrying this Ordinance into execution, and for such village purposes as the inhabitants of the division or the Committee (where the same shall be established) shall, at any meeting to be convened for that purpose, with the concurrence of the Government Agent, determine.

Village tribunal may direct appropriation of penalties.

Fines to be paid to Agent, to be applied by him as directed.

Any balance to be appropriated by the inhabitants.

36. IT shall be the duty of all Headmen, Police and Peace Officers, and of all members of the Police force, to aid and assist the inhabitants, Committees, and Tribunals in the exercise of the powers and jurisdictions and the performance of the duties imposed upon them by this Ordinance. Any Headman or Officer who shall fail to do so shall be guilty of an offence, and be liable on conviction to a fine not exceeding Fifty Rupees.

Headmen and Police Officers to assist in carrying out this Ordinance.

Passed in Council, the Twenty-seventh day of December, One thousand Eight hundred and Seventy-one.

JAMES SWAN,
Clerk to the Council.

Assented to by His Excellency the Governor, the Twenty-eighth day of December, One thousand Eight hundred and Seventy-one, and published by his order.

HENRY T. IRVING,
Colonial Secretary.