

Public (1895) Department.

ORDINARY PRINTED.

G.O., No. 267

DATED 9 April 1895

INDEXED.

[Despatch Abstract.]

BILLS---LEGISLATIVE.

Forwarding to certain officers, for favour of opinion, copies of the Bill to amend the Indian Volunteers Act, 1869, together with copies of the statement of objects and reasons; publishing the Bill and the statement of objects and reasons in the Fort St. George Gazette; and forwarding to the Deputy Adjutant-General 491 copies of the Bill for distribution among the members of the Volunteer Corps.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	1314		95				
	1776		95				
	1788		95				

9TH APRIL 1895, No. 267, PUBLIC.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following paper :—

From J. M. MACPHERSON, Esq., Officiating Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Calcutta, the 26th March 1895, No. 727.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this department with an expression of his opinion on the provisions of the Bill and with the opinions of the Hon'ble the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

2. I am also to forward 491 additional copies of the Bill and annexure and to request that they may be sent to the Officers Commanding the Volunteer Corps in Madras for distribution to members of the corps in the proportion of one copy among every ten volunteers.

3. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English and that the date of publication may be communicated in your reply.

4. The reply to this letter should be sent in by the 1st July next.

ORDER—dated 9th April 1895, No. 267, Public.

The Bill, with the Statement of Objects and Reasons, will be communicated to the Hon'ble the Judges of the High Court, the Lieutenant-General Commanding the Forces and the Hon'ble the Advocate-General, with the request that they will favour Government with their views on its provisions not later than the 1st June next.

2. His Excellency Lieutenant-General Mansfield Clarke will be requested to obtain and communicate the opinions of a few selected officers on the Bill.

3. The Bill and Statement will be published in the *Fort St. George Gazette*. The 491 copies referred to in paragraph 2 will be forwarded to the Deputy Adjutant-General for distribution under the orders of the Lieutenant-General Commanding the Forces.

(True Extract.)

Chief Secretary.

To the Hon'ble the Chief Justice, with C.L., with copy of Bill, &c.
 „ Deputy Adjutant-General, with 491 copies of Bill and Statement.
 „ Government Solicitor,
 „ Superintendent, Government Press, } with copy of Bill, &c.

Exd. A. B. it.

Govt. of {1895} Madras.
PUBLIC.

Issued

Recd.

Encl.

G.O., 9th April 1895, No. 267.

APRIL.

Bills—Legislative.

Forwarding to certain officers, for favour of opinion, copies of the Bill to amend the Indian Volunteers Act, 1869, together with copies of the Statement of Objects and Reasons; publishing the Bill and the Statement of Objects and Reasons in the *Fort St. George Gazette*; and forwarding to the Deputy Adjutant-General 491 copies of the Bill for distribution among the members of the Volunteer Corps.

[G]
9
2,000-2-4-35.

Current No.

DEPARTMENT.

From

The Govt. of India
Leg. Dept.

No. 727

Dated 26. 3. 95

Received 7/4

Recd 8/4

Enclosures 2

531 copies of each.

SUBJECT.

Reg^d the opinion of this Govt
on the provisions of the Bill
to amend the Indian Volunteer
act of '69, the distribution of
copies of the Bill & annexure amongst
the members of the Volunteer
Corps in Madras, publication
of the same in the *Fort St. George
Gazette* & intimation re: the
date of such publication.

A
BILL

TO

Amend the Indian Volunteers Act, 1869.

WHEREAS it is expedient to amend the Indian Volunteers Act, 1869; It is hereby enacted as XX of 1869. follows:—

Substitution of new section for section 8. I. For section 8 of the said Act the following section shall be substituted, namely:—

"8. Every member of a corps of volunteers shall, for all military offences of which he shall be guilty whilst on actual duty, be subject to the Army Act, 1881, so far as the same is applicable to officers, or consistent with the provisions of this Act."

"Explanation.—For the purposes of this and the following sections of this Act, volunteers shall be deemed to be on actual duty,—

- (a) when they are being trained or exercised either alone or with any portion of the regular forces; or
- (b) when they are attached to or otherwise acting as part of or with any regular forces; or
- (c) when their corps is on actual military service; or
- (d) when serving in aid of the civil power."

2. In section 12 of the said Act, for the words "Articles of War" the words and figures "Army Act, 1881," shall be substituted.

3. Subject to section 7 of this Act, for section 16 of the said Act the following section shall be substituted, namely:—

"16. No member of a corps of volunteers, other than naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the civil district in which he was enrolled, or, where a corps consists of volunteers enrolled in more civil districts than one, beyond the limits of the territory comprised in those districts: and

no member of a corps of naval volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits of the port to which the corps belongs, such port being construed to include the city or town after which the corps is named, and its suburbs, and the navigable rivers, channels and fairways leading thereto."

Substitution of new sections for sections 19 and 20, Act XX of 1869.

4. For sections 19 and 20 of the said Act the following sections shall be substituted, namely:—

"19. If any member of such corps shall, without reasonable excuse, neglect to attend drill or parade at such times as may be appointed for that purpose, or shall be guilty of any neglect of duty, or other military offence, he shall be liable to pay such fine, not exceeding fifty rupees, as the commanding officer may impose, or (except in the case of a commissioned officer) to simple dismissal from the corps, by order of the said commanding officer;

Provided that no volunteer shall be dismissed from his corps, or otherwise punished by his commanding officer under this section, until his guilt shall have been established by evidence duly taken and recorded in the books of the corps, under the signatures of the commanding officer and adjutant of the said corps:

Provided also that every such sentence of dismissal shall be reported to, and shall be liable to revision by, the Local Government, which may either reverse, or substitute a sentence of fine for, the same, or pass such other order in the case as may in its opinion be just and proper.

"20. If any member of such corps shall neglect to pay any fine to which he shall be sentenced by a general court-martial or by a commanding officer within such time as shall be fixed by the commanding officer of the corps, he may be dismissed by the said commanding officer from the said corps, and every dismissal shall be recorded and reported to the Local Government."

5. In section 22 of the said Act, after the word "court-martial" each time it occurs the words "or commanding officer" shall be inserted, and after the words "President of such Court" the words "or by such commanding officer, as the case may be," shall be inserted.

6. Subject to section 7 of this Act, after section 26 of the said Act the following sections shall be added, namely:—

"Supplemental.

"27. (1) In case of actual or apprehended emergency (the occasion being first declared by the Governor General in Council and notified in the Gazette of India) the Governor General in Council may call out any corps of volunteers for actual military service.

(2) All volunteers belonging to any corps so called out shall be bound, unless incapacit-

ated by infirmity for military service, to assemble as the Governor General in Council may direct, and to proceed according to orders within the limits hereinbefore specified; and, from the time of their corps being so called out, shall be deemed to be on actual military service.

(3) After a corps of volunteers has been called out for actual military service, the corps shall be deemed to be released from actual military service only after a notification in the Gazette of India declaring the occasion to have passed, and not sooner or otherwise:

Provided that the Governor General in Council may at any time discharge any such corps from actual military service.

(4) Before a corps of volunteers is released from actual military service, provision shall be made by the Government for the return of the volunteers present therewith to their homes.

Power to make rules as to allowances to volunteers. "28. (1) The Governor General in Council may make rules for—

(a) the making of payments to, and the provision of supplies for, volunteers called out on actual military service; and

(b) the grant of pay, pensions, gratuities, allowances and rewards to them.

(2) The Governor General in Council may apply such rules or any part of them to any volunteers who may have been called out by any Magistrate or other authority for the preservation of the peace:

and may in such case direct, any enactment notwithstanding, by whom the cost of the payments to be made and supplies to be provided under the rules shall be borne.

"29. Where a corps consists of volunteers enrolled in territories subject to more Local Governments than one, the Governor General in Council may, by notification in the Gazette of India, declare what Local Government shall for all or any of the purposes of this Act be deemed to be the Local Government with respect to the corps."

7. Nothing in the new section 16 substituted by section 3 of this Act or in the new section 27 added by section 6 of this Act shall apply to any volunteer who was enrolled before the commencement of this Act, unless he consents in writing to be bound by such new section 16 instead of by the section for which it is substituted, or by such new section 27, as the case may be.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL
TO
Amend the Indian Volunteers Act, 1869.

(Sir Henry Brackenbury.)

G. I. C. P. O.—No. 626 L. D.—27-3-95—3,172—E, H.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend the Indian Volunteers Act, 1869, in those respects in which the experience of its operation during a quarter of a century has proved the Act to be defective.

2. *Section 1 of Bill.*—Section 8 of the Act of 1869, which subjects volunteers to military law, so far as it applies to officers, whilst on actual duty or parade, has been recast. Some definition of the expression "actual duty" has been found to be necessary, and an explanation based upon section 176 (8) of the Army Act, 1881, has therefore been added to the section. The proviso, which exempts volunteers from the punishment of death, has been omitted, for it is obvious that (unlikely as the contingency may be) there are offences for which, if committed on active service, death would be the only suitable penalty.

3. *Section 2 of Bill.*—The expression "Articles of War" is now obsolete, and the reference thereto in section 12 of the Act has in consequence been altered, as in the proposed new section 8 above noticed, to a reference to the Army Act, 1881.

4. *Section 3 of Bill.*—Under section 16 of the Act, a volunteer is not, in the absence of anything to the contrary in the terms of the constitution of the corps to which he belongs, bound to serve beyond four miles from the place at which he was enrolled. This limit is much too restricted, especially in the case of certain naval, cavalry and railway corps. It is therefore provided in the Bill that the local limits of compulsory service shall ordinarily be the limits of the civil district in which the volunteer was enrolled, but that such local limits shall, (1) in the case of naval volunteers, be the limits of the port (including the adjacent city or town and its suburbs), and the navigable rivers, channels and fairways leading thereto, and (2) in the case of corps consisting of volunteers enrolled in more civil districts than one, be the limits of the territory comprised in those districts.

5. *Sections 4 and 5 of Bill.*—The opportunity of this Bill has been taken to recast section 19 of the Act, under which, as it at present stands, a member of a corps neglecting to attend drill or parades or committing other minor military offences can only be punished with fine after trial by a Regimental Court-martial. It is proposed to confer jurisdiction in such cases on the Commanding Officer of the corps and to empower him to award either dismissal or fine in the case of a conviction, subject to the proviso that every sentence of dismissal is to be reported to and liable to revision by the Local Government. The conferment of these powers of dismissal on Commanding Officers of volunteer corps in this country is in strict analogy to the law in England (see the Volunteer Act, 1863, section 21), where a Commanding Officer possesses like powers, subject only to such subsequent order or direction as may appear just and proper to Her Majesty. The English law has been found to work well, and there would seem no reason why similar provisions should not be equally efficacious in India. The amendments in sections 20 and 22 of the Act, which are also made by these sections of the Bill, are merely consequential on the recasting of section 19, in the manner above indicated.

6. *Section 6 of Bill.*—Proposed section 27 provides for the calling out of volunteers for actual military service, for their discharge therefrom, and for provision being made by the Government for their return to their homes: and proposed section 28 will enable the Governor General in Council to make rules for—

- (a) the making of payments to, and the provision of supplies for, volunteers called out on actual military service; and
- (b) the grant of pay, pensions, gratuities, allowances and rewards to them.

A draft of the rules which it is proposed to issue, if this Bill becomes law, is appended hereto for general information.

Under proposed section 28 the Governor General in Council may apply the rules made in favour of volunteers called out on actual military service, or any part thereof, to volunteers who may have been called out by any Magistrate or other authority for the preservation of the peace, and may direct by whom the cost of the payments to be made and supplies to be provided under the rules so applied in favour of volunteers called out for the preservation of the peace shall be borne.

Proposed section 29, following section 2, sub-section (b), Act III of 1888 (Police), and section 144, Act IX of 1890 (Railways), will enable the Governor General in Council, if he sees fit, to appoint one Local Government only to be such Government with respect to any corps which has companies or troops in more provinces than one.

7. *Section 7 of Bill.*—On the principle that in all voluntary service it is but right that specific consent should precede the imposition of a new liability, provision is here made that volunteers already enrolled before the proposed amending Act comes into force may, as regards the local limits of compulsory service and the calling out of volunteer corps for actual military service, elect to abide by the law as it stood in the Act of 1869.

The 11th March, 1895.

HENRY BRACKENBURY.

APPENDIX.

DRAFT RULES UNDER PROPOSED SECTION 28.

Grant of pay, gratuities, pensions, etc., to volunteers called out for military service.

When a volunteer corps is called out for actual military service, the following rules shall take effect—

- (a) There shall be issued to the Commanding Officer a sum of Rs. 32 for the use of every officer, non-commissioned officer and volunteer belonging to, and assembling with, the corps (except such of them as do not desire to receive the benefit thereof); and each such sum, or so much thereof as the Commanding Officer of the corps thinks fit, shall be laid out, under the direction of the Commanding Officer, in providing necessaries for such officer, non-commissioned officer and volunteer; and, within one month after issue thereof, an account shall be settled with each such officer, non-commissioned officer and volunteer respecting the application thereof, and any unapplied residue thereof shall be paid to him.
- (b) Such officers, non-commissioned officers and volunteers shall, while on, or proceeding to, or returning from, actual military service, be entitled to receive pay, allowances and rations as under:—
In the case of Government servants.—If on leave, civil leave allowances and military pay and allowances of rank. If not on leave, the volunteer may draw either civil pay or military pay and allowances of rank, according to his option.
If not in Government service.—Pay and allowances admissible to the different ranks in the British Army corresponding with those held by them in the volunteers.
In all cases.—Rations in the same manner and on the same scale as authorised for British troops serving in the military district in which the volunteers are serving.
- (c) On the release of the corps from actual military service, each officer, non-commissioned officer and volunteer present with the corps at the time of such release shall be paid Rs. 16 (except such of them as do not desire to receive the same) in addition to his pay and allowances.
- (d) A commissioned officer of the volunteers, who, when on actual military service, shall be wounded in action, or shall have received an injury when in the execution of military duty otherwise than in action, shall be entitled to the same pension or gratuity as an officer of similar rank in the British Army would be entitled to under the Royal Warrant in force at the time being.
- (e) A commissioned officer of volunteers, who, when on actual military service, shall be so wounded in action or injured when in the execution of military duty otherwise than in action as to be rendered permanently incapable of resuming similar employment to that in which he was engaged at the time when called out for actual military service, shall have the option of being placed for life upon the half pay of an officer of corresponding rank in the British service, as laid down in the Royal Warrant in force at the time being, instead of receiving any pension or gratuity to which he might be entitled under rule (d).
- (f) The widow, children, mother or sisters of a commissioned volunteer officer, who, when on actual military service, has been killed in action or has died of wounds received in action within twelve months after having been wounded, or has died from illness which can be directly traced to fatigue, privation or exposure, incident to active operations in the field, within twelve months after being first removed from duty on account of such illness, provided that the illness be certified to have commenced during such active operations, shall be entitled to such pension or gratuity or compassionate allowances as the widow, children, mother or sisters of an officer of like rank in the British Army would be entitled to under the Royal Warrant in force at the time being.
- (g) A volunteer non-commissioned officer or man, who, by reason of wounds or injuries received in action, or in the actual discharge of any military duty

when on actual military service, shall be rendered partially or totally incapable of earning a livelihood, or in the same manner shall be rendered temporarily incapable of earning a livelihood, shall be entitled to such pension or gratuity as a non-commissioned officer or man of similar rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

- (h) If a married volunteer non-commissioned officer or man, when on actual military service, be killed in action or die of his wounds within twelve months after having been wounded, and leave a widow, she shall be entitled to a gratuity of one year's pay of his military rank at the rate which the volunteer was in receipt of at the time of his death or of his being discharged from actual military service. A gratuity of one-third of a year's pay of the military rank of the father at the time of his death shall be issued under similar conditions to each orphan child under sixteen years of age, whose mother is dead.
- (i) If any person, becoming entitled under clauses (d), (e), (f), (g) or (h) of these rules to any pension, half pay, gratuity or compassionate allowances, be entitled under the rules of the Civil Service Regulations, or under special conditions of service, to pension, gratuity or compassionate allowances at higher rates, he or she shall be entitled to receive such higher rates instead of those named in the Royal Warrant.
- (k) Nothing in these rules shall be held to interfere with any rights or privileges as to pensions or gratuities to which members of the volunteer force or their families may be already entitled under the regulations now in force.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE
TO
Bill to amend the Indian Volunteers Act,
1869.

(Statement of Objects and Reasons.)

G. I. C. P. O.—No. 708 L. D.—27-3-95—3,173—E. H.

FROM

J. M. Macpherson, Esquire,
Off. Secretary to the Government of India,
Legislative Department,

TO

The Chief Secretary to the Government of
Madras.

Dated Calcutta the 26th March 1895

CHIEF SECRETARY
GOVERNMENT OF MADRAS
7 APR. 1895

SIR,

in 9 packets.

Bill to amend
the Indian Volunteers
Act 1869, with State-
ment of Objects
and Reasons.

I am directed to forward ^{thirty} forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this Department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Honble the Judges of the High Court and of such selected Officers and other persons as the Governor in Council may think fit to consult on the subject.

2. I am also to forward 491 additional copies of the Bill and annexure and

Sub 26799/4

Ref.

1164

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3. I am also to request that the Bill and Statement may be published in the Fort St. George Gazette in English and that the date of publication may be communicated in your reply.

4. The reply to this letter should be sent in by the 1st July next.

I have the honour to be,
Sir

Your obedient servant,

J. M. Macpherson

Offg. Secretary to the Govt. of India.

Public Department

18
C. No. 1164.

Order of 9th Apr: '95 No. 26

^B
The Bill, with the Statement of Objects and Reasons, will be communicated to the Honorable the Judges of the High Court, the Lieutenant General Commanding the Force and the Honorable the Advocate General with the request that they favour Government with their views on ^{its} the provisions of the Bill not later than the 1st June next.

^{in witness whereof}
Lieutenant General Mansfield Clarke may be requested to obtain and

Communicate

Communicate the opinions
of a few selected officers on
the Bill.

3. The Bill and Statement
will be published in the
For St. George Gazette.
The 491 copies referred to
in paragraph 2 will
be forwarded to the
Deputy Adjutant General
for distribution under the
orders of the Lieutenant
General Commanding
the Forces.

J.S.B.
9.4.95.

9/4/95

To
The Honble the Chief Justice.
Deputy Adjutant General.
with 491 Copies of
Bill and Statement.
Government Solicitor
Superintendent, Gov. Press.

First copy sent to Press.

Returned for signature.

Despatched in print.

READ AGAIN G.O. No.
189

DATE

CURRENT No.

ENCLOSURE TO G. No.

ORDER OF GOVERNMENT

ORDER OF GOVERNMENT

STATEMENT WITH DITTO

THIS NOT FILED UP, BEING MEANT FOR DESTROY
IN ORIGINAL.

N.B.—

A = Print in full.
B = Not to be printed.
C = Print abstract only.
Q = Print heading only.

NUMBER OF COPIES
REQUIRED.

Order complete.

Letter only.

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