

No. 16.—1864.

Title.

An Ordinance to amend Ordinance No. 11 of 1865, intituled "An Ordinance to consolidate and amend the law relating to servants, labourers and journeymen artificers, under contracts for hire and service," and to provide for the speedy recovery of wages due to labourers.

ARTHUR GORDON.

Preamble.

WHEREAS it is expedient to amend Ordinance No. 11 of 1865, intituled "An Ordinance to consolidate and amend the law relating to servants, labourers, and journeymen artificers, under contracts for hire and service," hereinafter called the principal Ordinance, and to provide for the speedy recovery of wages due to labourers: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:—

Interpretation clause.

1. The following words in this Ordinance shall have the meaning hereby assigned to them:—

"Estate" in this Ordinance means any estate on which immigrant labourers are employed, having ten acres of land actually cultivated with coffee, tea, cacao, cinchona, or any of the said products.

"Labourer" means every labourer male or female, and every kankani employed on an estate, and every contractor for weeding or other agricultural labour performed in working an estate.

"Wages" includes all sums which may be due on any contract for hire or service, and all sums due to any contractor for weeding or other agricultural labour performed in working an estate.

Wages to be first charge on estate recoverable by suit against proprietor. Proviso.

2. All wages due to any labourer shall be a first charge against the estate on which such labourer shall have been employed, and shall be recoverable by suit against the proprietor of such estate. Provided that such charge shall be limited to three months' wages only, and may be enforced by suit, or by claim, if instituted or preferred within three months of the last day of the period for which such wages are claimed.

*Labourers' Wages.*

3. In any suit instituted for recovery of wages due it shall be competent for the party sued or his representative, or for any other person allowed by the court to intervene in such suit, to prove that the party or parties suing for wages did receive in part payment thereof money, food, clothes or other materials which the employer was not liable under the principal Ordinance to supply at his own expense, and at fair and reasonable prices.

Party sued may prove part payment of wages in money, food, &c.

4. All claims for wages may, whatever shall be the amount claimed, be sued for and recovered before a Court of Requests having in other respects jurisdiction in that behalf, and a claim for wages so due may in any case where the proprietor of an estate has been adjudged insolvent, or in any case where the estate shall have been taken in execution by the Fiscal, or in any case where for more than three months there has been no settlement with the labourer of the amount of wages due to him, or in any case where three months' wages remain unpaid to any labourer, be made in one suit in the name of one or more labourers duly authorized in that behalf for and on behalf of themselves and of others to whom wages have become due from the same estate, provided that the person or persons who shall in his or their names sue for such wages satisfy the court before which the claim is made that he or they is or are authorized to sue for and on behalf of the other or others whose name or names may appear in the plaint.

Wages recoverable without limit in Courts of Requests.

In certain cases one or more labourers may, being authorized, sue in the name of others for wages.

5. In any suit to be instituted under this Ordinance it shall be sufficient to designate the party sued as the "proprietor of the ———— estate," specifying the name of the estate on which the labourer had been employed, without specifying the name or names of the proprietor or proprietors.

Designation of defendant as proprietor of estate.

6. The rules and orders in schedule A. annexed hereto shall apply to suits and proceedings instituted under this Ordinance; and upon any matter not specially provided therein the general rules and orders for Courts of Requests shall be followed in so far as the same are applicable.

Rules regulating procedure.

7. It shall be lawful for a mortgagee of an estate to pay and discharge the preferential claims of the labourers for three months' wages, and upon such payment he shall be entitled to add the amount thereof to the sum due upon his mortgage, and the amount so added shall be secured by the mortgage held by him.

Mortgagee may pay labourers' wages and add same to mortgage.

8. Every superintendent of an estate shall, in addition to the particulars required to be mentioned in the return to be made under section 2 of Ordinance 17 of 1862, intituled "An Ordinance to ascertain the proportion of mortality amongst the natives of India employed in agricultural and other labour in Ceylon," declare, according to the form provided in the schedule B. hereto annexed, the date (prior to the last day of the quarter to which the return relates) up to which the labourers have been paid their wages in full.

Declaration by superintendent of last date of payment of wages in full.

9. The provisions of the said Ordinance 17 of 1862 shall, in so far as they are applicable, apply to the declaration required to be made under the next preceding section save and except that any penalty to be inflicted in regard to the same shall be extended in the case of any person who shall omit to furnish such a declaration to

Provisions of 17 of 1862 to apply to declaration.

*Labourers' Wages.*

## Penalties.

a fine not exceeding one hundred rupees. And in the case of any person who shall wilfully neglect or refuse to make such declaration, or who shall make any false declaration, to a fine not exceeding three hundred rupees, or to imprisonment with or without hard labour for a term not exceeding three months.

## Right of Attorney-General to sue for labourers in his own name.

10. In any case where the Colonial Secretary shall, after inquiry made, have informed the Attorney-General that good reason exists for the interference of Government to protect the labourers on an estate from the possible loss of arrears of wages due to them, it shall be lawful for the Attorney-General, should he see fit to do so, in his own name to enter, or cause to be entered by some person authorized by him in writing in the name of him, the Attorney-General, a plaint for the recovery of such sums as may be due to such labourers in any Court of Requests having in other respects jurisdiction in the matter, and the proceeding to be had therein shall be in manner in this Ordinance prescribed.

## Part repeal of section 18 of Ordinance No. 11 of 1865.

11. Section 18 of the principal Ordinance is hereby repealed in so far as the provisions thereof are inconsistent with the provisions herein contained, provided that nothing in this section shall affect

- (a) The past operation of the principal Ordinance or anything done or suffered under the said Ordinance ; or
- (b) Any right, privilege, obligation or liability acquired, accrued or incurred thereunder ; or
- (c) Any penalty, forfeiture, or punishment incurred thereunder ; or
- (d) Any legal proceeding, or remedy in respect of any such right, privilege, liability, penalty, forfeiture or punishment as aforesaid.

## Ordinance 11 of 1865 to be read as one with this Ordinance.

12. This Ordinance shall be read and construed as one with "the principal Ordinance," except in so far as the provisions of "the principal Ordinance" are inconsistent herewith.

13. This Ordinance shall come into operation on the First day of April, 1884.

## SCHEDULES.

## A. [Section 6.]

## RULES AND ORDERS.

## Commencement of suit by filing plaint.

1. The suit shall commence by the filing of a plaint setting out the amount of wages due to each plaintiff, and thereupon the chief clerk shall issue a summons directed to the defendant requiring him to appear before the court on a day therein named to answer the claim of the plaintiff, and shall at the same time issue a subpoena to the superintendent of the estate for the same day as that named in the summons to attend and bring with him the check-rolls and any other documents which may be specified in such subpoena, and shall at the same time cause a notice in form hereunto annexed to be published in the "Government Gazette" of the two following weeks.

## Issue of summons to defendant and subpoena to superintendent.

*Labourers' Wages.*

2. The summons directed as aforesaid shall be served upon the superintendent of the estate for the time being, or, if the commissioner shall so direct, shall be affixed to a conspicuous part of the estate, and such service shall be deemed to be good and sufficient service on the defendant, and it shall be competent for such superintendent to appear for and represent the defendant in the said suit, and to adduce evidence therein.

Service of  
summons  
prescribed.

Superintendent  
may represent  
proprietor.

3. On the day named in such summons or on any other day to which the commissioner may adjourn or postpone the enquiry, he shall summarily hear and determine the several claims of the plaintiffs and give judgment thereon, and in determining the same the commissioner shall apply any payments, whether in money or in food, clothes or other materials alleged to have been made in partial discharge of wages, towards the payment of the antecedent wages in the order of time in which the same became due, and the commissioner shall by decree to be pronounced in the case specify the extent to which the first charge shall apply, and shall declare the estate bound and executable as a first charge for such judgment.

Investigation.

4. Upon judgment being entered it shall be lawful for the commissioner to order that the amount thereof be forthwith paid into court for the use of the plaintiff, and on non-payment to issue a single writ for the aggregate amount of the judgment, and to cause the said estate declared bound and executable to be sold in satisfaction thereof. Provided, however, that if the commissioner be satisfied that the sale of any definite portion of the said estate shall be sufficient to satisfy the judgment, he may, in the first instance, order accordingly.

Amount of  
judgment to be  
paid into court  
or single writ may  
issue for aggregate  
amount.

5. The judgment in the suit shall not be declared satisfied or discharged save by payment into court of the amount decreed, or by deposit in court of the amount thereof by levy in execution.

Discharge of  
judgment.

6. The fiscal shall execute a conveyance of the said estate or part thereof on sale in execution in favour of the purchaser in the form hereto annexed, and the same shall be sufficient to vest title in the purchaser.

Conveyance by  
fiscal.

7. Upon the payment into or deposit in court of the amount decreed or levied, the commissioner shall distribute the same among the parties adjudged to be entitled thereto, and make a record thereof.

Distribution of  
sum deposited.

8. It shall be competent for any mortgagee or any other person interested in the suit to intervene therein, if allowed by the court to do so.

Intervention by  
mortgagee.

## NOTICE.

NOTICE is hereby given that a suit has been instituted in the Court of Requests of  
by the labourers (or Attorney-General, as the case may be) of estate

*Labourers' Wages.*

against the proprietor or proprietors thereof to recover the sum of Rs. \_\_\_\_\_ due to them as wages.

This \_\_\_\_\_ day of \_\_\_\_\_ 188 .

[Chief Clerk.]

## FORM OF CONVEYANCE BY FISCAL.

WHEREAS by a decree pronounced by the Commissioner of the Court of Requests of \_\_\_\_\_ in case No. \_\_\_\_\_, it was ordered and decreed that the proprietor of the \_\_\_\_\_ estate do deposit in Court, for the use of the plaintiffs in the said suit, the sum of Rs. \_\_\_\_\_, and that the said estate (hereinafter described) be declared bound and executable as a first charge for the amount of such judgment. And whereas the proprietor of the \_\_\_\_\_ estate hath made default in the deposit of the said amount, and by writ of execution issued from the said Court bearing date \_\_\_\_\_, directed to the Fiscal for the \_\_\_\_\_ Province, he was directed to levy the said amount by the sale of the said estate [or part thereof, as the case may be]. And whereas the said estate [or part thereof] was seized in execution under the said writ, and after due notice was exposed to public sale on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ by \_\_\_\_\_, acting under the authority of the said Fiscal, and sold to \_\_\_\_\_ as the highest bidder, for the sum of Rs. \_\_\_\_\_, and the said \_\_\_\_\_ has paid the said sum to the said Fiscal: Now these presents witness that \_\_\_\_\_ the said Fiscal for the \_\_\_\_\_ Province, in consideration of the said sum of \_\_\_\_\_ paid by the said \_\_\_\_\_ the receipt whereof the said Fiscal doth hereby acknowledge, hath sold and assigned, and doth by these presents sell and assign unto the said \_\_\_\_\_ his heirs, executors, administrators and assigns, the \_\_\_\_\_ estate, bounded or reputed to be bounded on the north by \_\_\_\_\_, east by \_\_\_\_\_, south by \_\_\_\_\_, and on the west by \_\_\_\_\_, containing in extent \_\_\_\_\_ acres, and described in the map or diagram annexed, to have and to hold the said estate with their and every of their appurtenance by him the said \_\_\_\_\_ his heirs, executors, administrators and assigns for ever.

In witness whereof the said Fiscal (or Deputy Fiscal) hath hereunto inscribed his name at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord, One thousand Eight hundred and Eighty \_\_\_\_\_.

*Witnesses.*

[Signature of Fiscal.]

## B. [Section 8.]

*Declaration to be added to the return required by Ordinance 17 of 1862.*

I, "William Jones," hereby declare, as required by Ordinance \_\_\_\_\_ of 1884, that on or before the last day of the quarter to which the above return relates the monthly wages of the labourers employed on the abovenamed estate had been settled and paid in full up to the \_\_\_\_\_ day of the month of \_\_\_\_\_ and that the value of food, clothes, or other necessaries supplied to the labourers subsequent to the date abovementioned has not been deducted in whole or in part from the wages declared as paid and settled up to that date.

Passed in Council the Fourteenth day of February, One thousand Eight hundred and Eighty-four.

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

Assented to by His Excellency the Governor, the Fourteenth day of February, One thousand Eight hundred and Eighty-four.

J. DOUGLAS,  
Colonial Secretary.