

No. 31.—1884.

An Ordinance to amend Ordinance No. 10 of 1861, entitled
“An Ordinance to consolidate and amend the Laws
relating to Public Thoroughfares in this Colony.”

ARTHUR GORDON.

Preamble.

WHEREAS it is expedient to amend Ordinance No. 10 of 1861, entitled “An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony:” Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:—

Ordinance to be construed as one with Ordinance No. 10 of 1861.

1. This Ordinance, so far as is consistent with the tenor thereof, shall be construed as one with Ordinance No. 10 of 1861, entitled “An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony,” and in this Ordinance referred to as the principal Ordinance.

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2. This Ordinance may be cited as "The Road Ordinance, 1861, Amendment Ordinance, 1884."

Short title.

3. Every division officer shall, from the lists mentioned in the 42nd section of the principal Ordinance, as well as from such other information as he may possess, compile and prepare in duplicate a return showing the name and age of every person in his division liable to perform labour on the roads. Provided that it shall not be necessary for the division officer to ask the persons mentioned in such list who are liable to perform labour whether or not they elect to commute the same, anything in section 42 of the principal Ordinance to the contrary notwithstanding.

Division officer to prepare lists of those liable to labour on the roads.

4. Such return shall be prepared not later than the 21st day of December in each year, and shall be published in each district on or before the 31st day of January in the following year, by affixing one of the duplicates or a copy thereof to such conspicuous place in the division as the Chairman of the District Road Committee shall appoint.

Returns to be prepared not later than 21st day of December in each year.

5. The other duplicate shall be furnished to and be retained by the Chairman of the District Road Committee.

Duplicate of return to be retained by Chairman of District Road Committee.

6. The return so prepared shall be signed by the division officer who shall have prepared the same, and, as soon as published in the manner provided for by section 4 of this Ordinance, shall constitute notice to every person named therein of his liability to perform labour; and the production of either of the duplicates shall be conclusive proof of such notice.

Publication of returns to constitute notice of liability to labour.

7(1) It shall be lawful for the Chairman of the District Road Committee, upon proof to his satisfaction that any person resident within the district and liable to the performance of labour is either from disease or bodily infirmity incapable of performing labour, to exempt such person from the performance thereof either for life or for such period as the Chairman of the District Road Committee may think fit.

Chairman of District Road Committee may exempt from labour on ground of disease or bodily infirmity.

8. Every person whose name is inscribed in the returns referred to in section 4 of this Ordinance, and which shall not have been struck off therefrom by the Chairman of the District Road Committee, shall be liable to labour on the roads, and the returns either before or after amendment, should any amendment to them be made, or any copy thereof, certified to be a copy by the Chairman, shall be final and conclusive evidence of the liability to labour of any person whose name shall appear thereon, unless, in case of a copy, it shall be proved to the District Road Committee that such list was not a true copy of the original.

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Every person whose name appears on the returns liable to labour.

9. A supplemental return, should such be found necessary, may be prepared in the same manner as the return mentioned in section 4 of this Ordinance: Provided that any such supplemental return shall be published not later than the 30th day of April in any year, and provided that such supplemental return shall not include any person who was not an inhabitant on the 31st March of that year.

Supplemental returns may be prepared.

10. Upon any supplemental return being so published, all the provisions of this and the principal Ordinance relating to returns shall apply, so far as may be practicable, to any such supplemental

Provisions of this or principal Ordinance relating to returns.

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to apply to supplemental returns.

Performance of labour not to be required on Sundays, nor except during customary hours.

Persons not to be required to perform labour at greater distances from their residences than that fixed by Governor and Executive Council.

Notice of when and where to labour to be given to those who are liable to perform labour.

Persons failing to attend to perform labour liable to work for double the number of days such persons were originally liable.

Persons guilty of misconduct while at labour liable to increased labour not exceeding three days for each offence.

return in the same manner as if such return had been prepared and published under section 4 of this Ordinance.

11. No person liable to perform labour shall be required to attend for the performance thereof on a Sunday, nor except during the customary hours of labour.

12. No person, except as hereinafter provided, shall be required to attend for the performance of labour on any principal thoroughfare nor on any minor thoroughfare which shall be at a greater distance from his residence than ten miles: Provided that the Governor, with the advice of the Executive Council, may from time to time vary the distance within the limit hereinbefore prescribed.

13. Every division officer, on being directed so to do by the Chairman of the District Committee, shall give notice to the inhabitants of his division liable to perform labour, who shall not in the manner hereafter provided have commuted the same, to attend and perform such labour at the time and place appointed by the Chairman of the District Road Committee, and such notice shall be given by publication by beat of tom-tom not less than seven days before the day appointed for the attendance of such inhabitants, and in such other way, if any, as the Chairman of the District Road Committee shall direct. Provided that no such notice shall be given until the time during which a person is, under section 26 of this Ordinance, allowed to commute, shall have elapsed.

14. Any person liable to perform labour, and who has not commuted in the manner hereinafter provided, who shall, without lawful excuse, the proof of which excuse shall lie on such person, fail to attend to perform labour at the time and place appointed for that purpose, or who shall fail to pay the amount of commutation money due by him as hereinafter provided, shall be liable, on receiving notice so to do, to labour on the thoroughfares or public tanks of the district in which such person's liability to work arose, for double the number of days for which such person was originally liable: Provided that the limitation as to distance prescribed by section 12 of this Ordinance shall not apply to persons required to perform double labour under this section, but if the distance of the place where such person is called upon to work under this section is greater than that mentioned in section 12 of this Ordinance, such person shall be provided with lodgings by the District Road Committee, and provided that any person who shall have become liable to the performance of the double labour under this section may commute such double labour in the manner hereinafter provided.

15. If any person attending to perform labour due by him, whether it be labour for which he was originally liable, or the increased labour by reason of his having failed to attend in the first instance, shall, without lawful excuse, the proof of which excuse shall lie on such person, neglect or refuse to remain in attendance during the working hours, or who shall be guilty of

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any drunkenness, wilful neglect, or disobedience of the orders of the officer in charge of the work in which such person shall be employed, or of not taking due care of the tools and implements entrusted to him, or of any other misconduct in the performance of the labour required of him, every such person shall, after enquiry and on adjudication, be liable to be condemned by the Chairman of the District Road Committee to work for an extra number of days, not exceeding three days for any one of the above offences: Provided that the aggregate amount of punishment imposed upon any one person under the provisions of this section shall not exceed six days' labour.

16. Whenever any person fails after receiving notice to attend, or neglects or refuses to perform or abandons the performance of double labour under section 14, or additional labour under section 15 of this Ordinance, he shall be guilty of an offence, and be liable to the punishment provided by section 18 of this Ordinance, and the Chairman of the Road Committee of the district in which such person is bound to labour is hereby empowered and required, unless such person be otherwise before him, to issue his warrant for the arrest of such person, which warrant shall be substantially in the form A. of the schedule hereunto annexed.

Persons neglecting or refusing to perform double or additional labour to be arrested on warrant of Chairman of District Road Committee.

17. Every such warrant of arrest may be executed by the person or persons to whom it is addressed, or by any police officer, headman, fiscal, or fiscal's officer, and every such warrant shall be executable throughout the Island without any endorsement, anything in the Ordinance No. 3 of 1883, entitled "An Ordinance for regulating the procedure of the Courts of Criminal Judicature," to the contrary notwithstanding.

Persons by whom any such warrant may be executed.

18. Any person arrested under the provisions of this Ordinance shall be taken without delay before the Chairman of the District Road Committee, according to the terms of the warrant, and the Chairman before whom such person shall be brought, shall enquire into the charge on which such person was arrested, and upon being satisfied that the party arrested is the person against whom the warrant was issued, and that the offence mentioned in such warrant was committed by such person, shall, and is hereby required, by warrant substantially in the form B. of the schedule to this Ordinance, to commit such person to prison, there to be detained at hard labour for the period of one month: Provided that the Chairman before whom any such person shall be brought may, in his discretion, in lieu of committing such person to prison, adjudge him to pay a penalty of ten rupees, and if such sum be paid forthwith, or within such time as the Chairman may allow, such person shall not be committed to prison, but otherwise he shall, and the Chairman may, if such person shall have been released prior to the payment of such fine when inflicted, issue, if necessary, a warrant for his arrest: (c) Provided that from any decision of the Chairman under this section there shall be no appeal.

Person arrested to be taken before Chairman of the District Road Committee, and, if found guilty, to be sentenced to imprisonment or to pay penalty.

19. Any penalty so recovered shall forthwith be credited to Government, and be deemed and taken to be a payment to Her Majesty.

Penalty to be credited to Government.

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Warrant of arrest to be issued without any previous summons.

20. The warrant of arrest mentioned in the 16th section of this Ordinance shall be issued as a warrant of first instance, and it shall not be lawful for the Chairman of the Road Committee of a Province or the Chairman of a District Road Committee to issue a summons or any other description of notice before issuing such warrant of arrest.

Register to be kept of warrants issued, &c.

21. A register shall be kept by the Chairman of the District Road Committee in which shall be entered a list of all warrants issued under this Ordinance, the reasons for which such warrants were issued, and the punishment inflicted upon the offenders brought up in virtue of such warrants.

Persons condemned under this Ordinance to be sent to prison as ordinary prisoners.

22. Any person sentenced to imprisonment under the provisions of this Ordinance may be imprisoned in the prison of the district wherein he is condemned, in the same way as if he had been condemned under the authority of a Court, Justice of the Peace, Coroner or Deputy Coroner, anything in the Ordinance No. 16 of 1877 to the contrary notwithstanding.

District Road Committee may pay subsistence money or provide food to persons performing labour under sections 14 or 15.

23. The District Road Committee shall, upon the application of any person performing double labour under section 14. or increased labour under section 15 of this Ordinance, or whenever such committee may consider it necessary to do so, provide such person for every day that he may labour with either subsistence money equal to one half of the ordinary rate of a cooly's wages, as paid in the district in which such work shall be performed, or with food, according as such committee may deem best; and any person who shall receive subsistence money or food in virtue of this section shall, in addition to the labour for which he was otherwise liable, labour on such works as are mentioned in section 14 of this Ordinance for an extra number of days, exclusive of Sundays, equal to the number of days for which he was liable to double labour or increased labour: Provided that any person shall, during the time that he may be so at labour, be subject to the provisions of sections 14, 15, and 16 of this Ordinance in respect of any of the offences therein mentioned.

District Road Committee to determine questions of age, or rate of commutation, or distance.

24. If any person shall claim to be exempted from the performance of labour by reason that his age is less than eighteen years or exceeds fifty-five, or if at any time complaint shall be made that any person has been unduly exempted from labour on a like plea, or if any question shall be raised as to the rate of commutation which ought to be paid by any person for the labour due by him, or if any person shall refuse to labour upon any work upon the plea that the same is situated at a greater distance from the place where he resides than that prescribed, it shall be lawful for the Chairman of the District Road Committee of the district to which any such person may belong, to make such enquiry as he shall deem necessary, and to determine any such question; and the decision of such Chairman shall be final.

Commutation.

Permission to commute.

25. It shall be lawful for any inhabitant to commute the performance of the labour due by him for any one year, except any double or increased labour to which he may have become liable

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under sections 14 and 15 of this Ordinance, by a money payment of such sum not exceeding two rupees, as the Governor, with the advice of the Executive Council, may from time to time fix in respect of the province or district in which such inhabitant resides: Provided that the rates of commutation hitherto paid under the principal Ordinance shall be levied until altered by Proclamation. And it shall be lawful for any person who shall have become liable to the performance of double labour under section 14 of this Ordinance to commute such double labour by the payment of double the amount of the rate of commutation leviable in that district at any time previous to the day on which such person shall have been notified to perform double labour.

26. Any person desiring to commute the performance of labour by a money payment shall pay the amount due by him on or before the 28th day of February in each year, and up to such date a person shall not be liable to the penalties provided by section 14 of this Ordinance. 10 1900 : 10 1902 7

27. The amount due by any person as commutation money shall be paid to a division officer of the district to which the person liable to pay may belong, or to the Chairman of the Road Committee of the said district, who shall grant a receipt therefor, and any money paid as such commutation money shall be deemed and taken to be a payment to Her Majesty.

28. Every division officer shall grant a receipt upon a form issued by and bearing the stamp of the District Road Committee, and shall pay over all such sums received by him as division officer to the District Committee, at such times and in such manner as such Committee shall direct, and all such sums shall forthwith be deposited in the Kachhéri and shall be placed to the credit of the Chairman of the District Road Committee, and the order of such Chairman for the payment of any commutation money, together with the receipt of the party to whom the same is paid in pursuance thereof, shall be a full and sufficient authority and discharge for any such payment, and all such receipts and orders for payment as are mentioned in this or in the next preceding section shall be free of stamp duty.

29. If any person, who shall have paid the amount due by him as commutation money under this or the principal Ordinance, shall deliver any receipt given to him by the division officer or by the Chairman of the District Road Committee to any other person, in order that such last-mentioned person may make use of the same in proof of his having paid any sum of money due by him, or for any other fraudulent purpose; or if any person shall deceitfully make use of any receipt given to any other person by a division officer or a Chairman of a District Road Committee as a receipt given to him, such persons, or either of them, shall be guilty of an offence, and be liable to such punishments as the court before which they or either of them may be tried shall impose.

30. Every Provincial Committee shall, on or before the 1st day of August in every year, forward to the Colonial Secretary for transmission to the Governor, a statement exhibiting the amount

Persons desiring to commute when to pay 31 March commutation money.

Commutation money to be paid to division officer or to Chairman of District Road Committee and to be deemed a payment to Her Majesty.

Division officer to grant receipts for commutation moneys, and to deposit the same according to the instructions of the District Road Committee.

Persons fraudulently making use of commutation receipts to be prosecuted.

Provincial Committee to forward yearly statements of

Public Thoroughfares.

Accounts and
Recommendations
for expenditure.

which the Committee recommend should be expended during the ensuing year, together with a list of the roads, rivers, lakes, canals, rest-houses or other works on which the Committee desire the said amount to be expended.

Governor may
amend or alter
such statements.

31. Subject to the enactment contained in section 32 of this Ordinance, the Governor may from time to time make any alteration or amendment in any such statement or list which may appear to him necessary, and propose such statements and lists or such amended statements and amended lists to the Legislative Council in the Ordinance providing for the contingent expenditure of the Colony for the ensuing year.

If no statement
sent in by
Provincial
Committee,
Governor may
prepare
statements and
submit same to
Legislative
Council.
Amount of
labour required
for the
performance of
work, &c., to be
stated in
Ordinance to be
passed for the
purpose.

32. In the event of any Provincial Committee failing to transmit such statement and list as hereinbefore mentioned on or before the 1st day of August, the Governor may, subject to the enactment contained in the next following section, make such statement and list as he shall consider necessary, and propose the same to the Legislative Council in the manner provided in the next preceding section of this Ordinance.

33. Whenever such statements and lists have been proposed by the Governor and approved by the Legislative Council, the amount of labour to be supplied for the performance of any works contained in such approved statements and lists shall be distinctly stated in the Ordinance enacted for the same, and shall in no case exceed two-thirds of the whole amount of labour due from the district or districts within which it may be required to be performed, less two-thirds of the necessary expenditure to be incurred in carrying out the provisions of this and the principal Ordinance.

Repealing clause.

34. Section 18 and sections 51 to 65, both inclusive, of the principal Ordinance, and the provisions of Ordinance No. 5 of 1866, entitled "An Ordinance to facilitate the recovery of moneys due as commutation of the Paddy Tax and of the performance of Labour," in so far as they relate to the recovery of any amount due as commutation under the principal Ordinance or under this Ordinance, are hereby repealed; provided that such repeal shall not affect—

- (a) The past operation of anything done or suffered under any enactment hereby repealed, nor
- (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed, nor
- (c) Any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment hereby repealed, nor
- (d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

Ordinance not to
operate within
limits of
Municipalities or
towns having Local
Boards.

35. This Ordinance shall not apply to nor operate within the limits of any town in which a Municipality or a Local Board shall have been or may be hereafter established.

SCHEDULE A.

WARRANT OF ARREST UNDER SECTION 16 OF ORDINANCE No. 31 OF 1884.

To [name and designation of person or persons who is or are to execute the Warrant.]

WHEREAS _____ of _____ is charged with the offence [here state the offence in terms of sections 14 or 15, according to the facts, as the case may be] in breach of section 16 of Ordinance No. _____ of 1884; you are hereby directed to arrest the said _____ and to produce him before me at _____.

Dated the _____ day of _____.

(Signed) _____

Chairman of the Road Committee of the
_____ Province,
or Chairman, District Road Committee.

SCHEDULE B.

WARRANT OF COMMITMENT ON A SENTENCE UNDER SECTION 18 OF ORDINANCE No. 31 OF 1884.

To the Fiscal of the _____ Province.

WHEREAS on the _____ day of _____ 188 [name of prisoner] was convicted before me [name, Chairman of the Road Committee of the _____ Province, or Chairman of the District Road Committee for the District of _____, as the case may be] of the offence of [mention concisely the offence] under section _____ of Ordinance No. _____ of 1884, and was sentenced to one month's imprisonment with hard labour.

This is to authorize and require you to receive the said [prisoner's name] into your custody in prison at _____, together with this Warrant, and there to carry the aforesaid sentence into execution according to law.

Given under my hand this _____ day of _____ 188 .

[Signature and Official Designation.]

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

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

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

JOHN F. DICKSON,
Acting Colonial Secretary.