

Rev. S. P. L. / Sept
Government of Madras

HOME (MISCELLANEOUS) DEPARTMENT

10-01
G.O. No. 1301, 10th September 1919

Emigration—Ceylon

Publishing the draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum on the draft issued by His Excellency the Governor of Ceylon.

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N. P.

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G.O. No. 1301, 10th September 1919

Emigration—Ceylon

Publishing the draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum on the draft issued by His Excellency the Governor of Ceylon.

READ—the following papers :—

I

Letter—from G. L. CORBETT, Esq., I.C.S., Deputy Secretary to the Government of India, Department of Commerce and Industry.

To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.

Dated—Simla, the 22nd July 1919.

No.—5467.

With reference to the correspondence ending with the telegram from this Department No. 3342-D., dated the 14th March 1918, I am directed to say that the Government of India have received from the India Office a copy of the report of the Committee appointed by the Ceylon Government to inquire into the question of the recruitment of Indian labour for the Colony. As only one copy has been received, I am to suggest that the Government of Madras should obtain copies direct from the Ceylon Government, if they have not already been supplied.

II

Letter—from C. H. BROWN, Esq., I.C.S., Under Secretary to the Government of Madras, Home (Miscellaneous) Department.

To—the Hon'ble the Colonial Secretary, Colombo.

Dated—Ootacamund, the 7th August 1919.

No.—Ref. 5273-1.

I am directed to refer to the correspondence ending with my letter No. 284, Home (Miscellaneous), dated the 20th March 1918, and to request that this Government may be furnished with six copies of the report of the Committee appointed by the Ceylon Government to inquire into the question of recruitment of Indian labour for the Colony. Information has been received from the Government of India that a copy of the report has been received by that Government from the India Office.

III

Letter—from J. G. FERNAND, Acting Secretary, Judicial and Public Department, India Office, Whitehall.

To—the Chief Secretary to the Government of Madras.

Dated—London, S.W.1, the 1st July 1919.

No.—J. & P. 2732/19.

I forward, for information, copy of the papers noted in the margin on the subject of the Report of a Committee appointed by the Governor of Ceylon on the Recruitment of Indian Labour for Ceylon.

From Colonial Office, dated 29th April 1919, and enclosures including report.
To Colonial Office, dated 19th June 1919.

ENCLOSURES

(i)

No. 16531.

Subject.—Recruitment of Indian labour for Ceylon.*Reference to previous correspondence:* Letter to the Colonial Office of the 19th of February, No. J. & P. 114/19.

From Government, Ceylon, 14th February.

Transmitted by direction of the Secretary of State for the Colonies.

Colonial Office, Downing Street,
29th April 1919.

SUB-ENCLOSURES

(1)

CEYLON,
14th February 1919.

My Lord,

With reference to Mr. Long's Confidential despatch of the 11th December 1918, relative to the report of the Committee appointed by Sir John Anderson to consider the question of the recruitment of Indian labour for Ceylon, and, in particular, the desirability of a greater measure of control and supervision being exercised by the Government of Ceylon in this connexion, I have the honour to enclose copies of letters received from the Planters' Association of Ceylon and the Estate Agents' Association with regard to the recommendations made by the Committee.

2. I recently discussed the whole question with the Attorney-General and five representative members of the planting and mercantile communities, viz., Mr. T. L. Villiers, Mr. T. Y. Wright, Mr. J. B. Coles, Mr. R. G. Coombe, and Sir J. Thomson Broom, and it was decided at the meeting that the gentlemen named should draw up for consideration a scheme for the inauguration of a Labour Department of Government under an officer whose designation would be 'Controller of Labour', or 'Protector of Immigrants.'

3. It was also decided that, prior to taking any definite steps to deal with the 'tundu' system (referred to in paragraph 24 of the Committee's report), the Attorney-General should prepare a draft Ordinance, on the lines of a similar Ordinance in force in Nigeria, making it an offence to advance money to any Indian immigrant.

I have, etc.,

W. H. MANNING,
Governor, etc.

The Right Hon'ble Viscount Milner, G.C.B., G.C.M.G.

(2)

KANDY,
13th November 1918.*Recruitment of Indian labour for Ceylon.*

Sir,

With reference to your letter of the 17th July last addressed to my Chairman asking for the opinion of this Association on the report of the Committee appointed to deal with the above subject, I have the honour to enclose herein copy of a resolution passed by the Committee of this Association at its meeting held on the 8th instant.

I am, etc.

N. I. LEE,

Acting Secretary, Planters' Association of Ceylon (Incorporated).

Copy of resolution referred to—

Resolved "That this Association approves of the recommendations of the Labour Committee on general lines, but at the same time would urge upon Government the necessity of consulting all the interests concerned as regards the eradication of existing debts, the result of which would probably necessitate the appointment by Government of a special Commission to deal with this particular subject."

The Hon'ble the Colonial Secretary.

(3)

THE ESTATE AGENTS' ASSOCIATION,
Colombo, 4th October 1918.

Hon'ble the Colonial Secretary.

Recruitment of Indian labour.

Sir,

In reply to your letter of July 17th last, I have the honour to inform you that the report on the recruitment of Indian labour for Ceylon was submitted to the members of this Association confidentially and discussed at meetings held on the 25th ultimo and 2nd instant.

The Committee in their report emphasize the opinion that no organization for improving the methods by which, and the conditions under which labour is recruited for Ceylon, can or should be attempted unless some scheme for eradicating the existing indebtedness of the Indian Estate Labourers now in Ceylon has been introduced first, or is introduced concurrently.

This question of the indebtedness of the labourers has been engaging the attention of all employers for some years past, both in Ceylon and in London, and so recently as 1916 a Committee appointed by the Proprietors' Labour Federation drew up a report and a draft Ordinance for dealing with the situation.

The object that this Committee had in view was to liberate Indian labour in Ceylon from debt, but whilst having every sympathy with this desire, the scheme put forward was generally regarded as unlikely to attain this object. It was considered at a meeting in London of proprietors and shareholders of companies holding property in Ceylon and representing a very large percentage of the proprietary interests in the Island, which decided that the scheme would not accomplish the object aimed at and the proposals were therefore vetoed. This Association, which represents many London proprietors and companies registered locally, endorsed the opinion that legislation should not be asked for at that juncture.

The same objection as prevailed at that time prevail with the present proposals contained in paragraph 24, and in the opinion of this Association no remedy will lie in the writing off of advances unless it is accompanied by the introduction of an Ordinance or Ordinances dealing with the power of a coolie to borrow money, a habit so ingrained in him and in such wide practice both in India and Ceylon that the Ordinance would have to be so drastic as to interfere seriously with the liberty of the subject. At the same time I would point out that since this matter came so prominently before proprietors and planters many efforts have been made to reduce the indebtedness of the coolie. On the great majority of estates, the accounts between the kangannies and the labourer are kept by the Superintendent. The travelling expenses of coolies from India to Ceylon are usually paid by the estate after adequate precaution has been taken to see that they are bona fide coast coolies. The debts of coolies who die, having no assets, are generally written off.

I would also submit that the evidence given before the Committee shows that the conditions under which the Indian labourer now works in Ceylon leave little room for unfavourable comment, and though the utility of handing over the present system of recruiting to a board under Government control has yet to be proved, this Association would welcome the appointment of an Advisory Board on the lines laid down in paragraph 14 of the report.

I have, etc.

TOM VILLIERS,
Chairman.

(ii)

Public.
J. & P. 2732/19.

19th June 1919.

Sir,

I am directed by the Secretary of State for India to acknowledge the receipt of Colonial Office Memorandum No. 16531, dated 29th April 1919, transmitting a copy of the despatch of 14th February 1919 from the Governor of Ceylon and its enclosures including the Report of the Committee on the Recruitment of Indian Labour for Ceylon.

Mr. Secretary Montagu hopes that the recommendations of the Committee if carried into effect may result in an improvement in certain respects in the condition of the Indian labourers in Ceylon, but will defer expressing a definite opinion pending the receipt of the views of the Governments of India and Madras. I am to inquire whether a second copy of the report may be furnished for transmission to the Government of India.

At this stage Mr. Montagu only wishes to make the following observations:—

- (1) He notes that the Indian community was not represented in the *personnel* of the Committee.
 - (2) If an Immigration Board is established on the lines recommended by the Committee, it is to be hoped that the immigrants themselves will be represented thereon by members of their own community who are known to be qualified to protect their interests.
 - (3) It is a point for consideration whether the office of a Protector of Immigrants might not be established.
 - (4) Another question which the Indian Government may wish to examine is the future agency for the actual recruitment of the labourers on the mainland. Possibly some method of closer official supervision and control by the Government of Madras may be desirable.
 - (5) It is observed that the Committee make no recommendation regarding the abolition of imprisonment for labour offences which was one of the points raised by the Government of Madras in their letter of 26th April 1917, transmitted to the Colonial Office with Sir T. Holderness's letter No. J. & P. 924/18, dated 12th April 1918.
 - (6) Another question which it may become desirable to consider is that of providing for the payment of a minimum wage to the labourers.
- Mr. Montagu notes that the Governor is taking immediate steps for the inauguration of a Labour Department and for prohibiting by law advances of money to Indian immigrants.

I have the honour to be, Sir,
Your obedient servant,
T. W. HOLDERNESS.

The Under Secretary of State, Colonial Office.

IV

Letter—from the Hon'ble the Colonial Secretary, Colombo.
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Colombo, the 15th August 1919.
No.—25060.

[Recruitment of Indian labour for Ceylon.]

With reference to your letter No. 1131 of the 23rd July 1919, I am directed to forward herewith 3 copies each of

- (a) the report of the Committee on recruitment of Indian labour for Ceylon,
- (b) the draft of "The Immigrant Labourers' Ordinance No. of 1919", and
- (c) a memorandum on the draft Bill.

V

Letter—from the Hon'ble the Colonial Secretary, Colombo.
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Colombo, the 23rd August 1919.
No.—27029.

With reference to your letter No. 5273-1 of the 7th August 1919, I am directed to forward herewith 3 further copies each of

- (a) the report of the Committee on recruitment of Indian labour for Ceylon,
- (b) the draft of "The Immigrant Labourers' Ordinance No. of 1919", and
- (c) a memorandum on the draft Bill.

2. Three copies of each of these documents have already been forwarded to you with Colonial Secretary's letter of the 15th August 1919.

VI

Letter—from M.R.Ry. Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to the Government of Madras, Home (Miscellaneous) Department.
To—the Hon'ble the Colonial Secretary, Colombo.
Dated—Ootacamund, the 10th September 1919.
No.—1300.

I am directed to acknowledge with thanks the receipt of the papers forwarded with your letters Nos. 25060 and 27029, dated the 15th and the 23rd August 1919, and to forward herewith for information a copy of the minutes of discussion between the Madras Government and the members of the Ceylon deputation.

Order—No. 1301, Home (Miscellaneous), dated 10th September 1919.

The draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum issued by His Excellency the Governor of Ceylon is printed as an annexure to these proceedings.

2. The report of a Committee appointed by His Excellency the Governor of Ceylon to consider the recruiting of Indian labour for Ceylon and especially the desirability of a greater measure of Government control and supervision is published by the Government of Ceylon. This is on sale at the Government Record Office, Colombo, at Re. 1 a copy.

(True extract)

R. RAMACHANDRA RAO,
Secretary to Government.

To the Officer in charge, Publicity Bureau (with a copy of report).
,, Revenue (Special) Department (with notes).
Editors' Table (order and annexure only).

[Annexure.

ANNEXURE.

Draft of an Ordinance to provide for the well-being and control of Immigrant Labourers.

Preamble. WHEREAS it is expedient to make special provision for the well-being and control of immigrant labourers: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title. 1. This Ordinance may be cited as "The Immigrant Labourers Ordinance, No. of 1919."

Definitions. 2. In this Ordinance, unless the context otherwise requires—

"Immigrant labourer" means any labourer or kangany (commonly known as an Indian cooly) or any Muhammadan (commonly known as a Tulican) who is at the commencement of this Ordinance in the Colony, or who is introduced into or arrives in the Colony after the commencement of this Ordinance, and, in any of such cases, is employed, or is intended to be employed, or subsequently seeks employment, in any of the following kinds of labour, namely:

- (a) Agriculture, including the treatment of produce and its portage to the place of treatment;
- (b) The making and upkeep of roads;
- (c) Railway construction, maintenance, and working;
- (d) The construction, maintenance, and working of all works of a public nature;
- (e) Mining and works on mines;
- (f) Quarrying and stone breaking;
- (g) Brick-making;
- (h) The treatment in factories of tea, paddy, rubber, coconuts, cocoa, and other agricultural produce; or
- (i) Any other kind of labour declared under this Ordinance to be subject to the provisions thereof.

Provided always that persons employed—

- (i) exclusively in administrative or clerical work;
- (ii) in gardens attached to private residences; or
- (iii) any other kind of labour declared under this Ordinance not to be subject to the provisions thereof

shall not be deemed to be immigrant labourers under this Ordinance.

"Labour" includes any of the kinds of labour specified or declared as above provided.

"Introduce," "introduced," with reference to the immigration into the Colony of an immigrant labourer, means the bringing in of such labourer with a view to his being employed in labour in the Colony.

"Employer" means any person who employs any immigrant labourer, and includes the agent, superintendent, or manager of any such person, and in the case of any department of the Government or local authority employing any immigrant labourer, the head of such department, or the chairman of such authority, respectively.

"Controller" means the Controller of Labour appointed under this Ordinance.

"Prescribed" means prescribed by regulation under this Ordinance.

Department of Immigrant Labour.

Appointment of Controller of Immigrant Labour. 3. It shall be lawful for the Governor to appoint some fit and proper person to be Controller of Immigrant Labour.

Annual report by Controller. 4. The Controller shall be head of the Department of Immigrant Labour, and shall be entrusted with the duty of carrying out the provisions of this or any other Ordinance relating to immigrant labourers, and the measures adopted for the encouragement of the introduction of immigrant labourers into the Colony.

5. The Controller shall, not later than the thirty-first day of March in each year, present a report to the Governor dealing generally with the carrying out of the provisions of this Ordinance, and dealing specially with such matters as he may consider to be worthy of special attention, or as he may be directed to report upon by the general or specific instructions of the Governor.

Inspectors and other officers of department. 6. The Governor may appoint such and so many fit and proper persons to be medical officers, inspectors, assistant inspectors, clerks, and other officers, and peons as may be necessary for the carrying out of the provisions of this Ordinance.

Officers of department in India. 7. The Controller may, with the consent of the Governor, station in India such and so many officers of the department as may be necessary to carry on and to supervise the work of recruiting immigrant labourers, of the care of such labourers, and of seeing to their transport to the Colony, free, in all cases, of charge to such labourers.

8. (1) The Controller or any Inspector or Assistant Inspector may at any time, with or without notice, enter upon any premises on which immigrant labourers may be employed and inspect the condition—

- (a) of such labourers;
- (b) of their housing accommodation; and
- (c) of the means provided for the medical treatment of such labourers.

(2) Any officer from time to time deputed, with the concurrence of the Governor of Ceylon, by the Government of Madras to examine and report to that Government upon the condition of immigrant labour in Ceylon may exercise all or any of the powers of entry and inspection which are conferred on the Controller or any inspector or assistant inspector by this Ordinance.

(3) Any person refusing to allow the Controller or any such inspector or assistant inspector or any such officer as aforesaid to enter or inspect as aforesaid, or hindering, molesting, or obstructing the Controller or any such inspector or assistant inspector or any such officer as aforesaid in or about any such entry or inspection shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

Board of Immigration. 9. (1) The Governor may appoint any number of persons not exceeding twelve to be members of the Board of Immigration.

- (2) Each such appointment shall be for a period not exceeding three years.
- (3) Any member shall be eligible for re-appointment.
- (4) Any member may resign by notice in writing given to the Colonial Secretary.
- (5) The Controller shall be *ex-officio* Chairman of the Board.

Duties of Board. 10. (1) The Board shall meet at such place as may be prescribed at least once in every quarter, and as much oftener as the Controller shall summon it together.

(2) The duty of the Board shall be to advise the Controller in regard to matters arising under this Ordinance, but the Board shall not exercise any administrative or executive functions.

Finance.

11. (1) For the purposes of this Ordinance there shall be established a fund, to be called the Immigration Fund, which shall be administered by the Controller, subject to the control of the Governor.

(2) As soon as may be after the termination of each quarter, a financial statement showing the position of the fund shall be submitted by the Controller to the Board for their information.

12. The fund shall be credited with—

- (a) the surplus balance of the Tin Ticket Fund existing at the time of the commencement of this Ordinance;
- (b) all sums received or recovered under the provisions of this Ordinance from employers in respect of the employment of immigrant labourers; and
- (c) any sum voted by the Legislative Council in aid of immigration.

Charges on fund. 13. (1) The fund shall be debited, save as is expressly provided under this Ordinance, with the whole cost of introducing immigrant labourers into this Colony, and with the expenses of the department in carrying out the provisions of this Ordinance, and particularly, but without detracting from the general liability imposed by this section, with the cost of—

- (a) the recruitment of immigrant labourers;
- (b) the transportation of such labourers, and their handing over to the employer for whom they have been recruited;
- (c) repatriating such labourers and their dependents;
- (d) any prescribed allowance payable to any employer in respect of each such labourer recruited directly on his behalf by any licensed recruiter.

(2) The fund shall not be debited with the salaries and allowances, if any, of the Controller and other officers of the department, but such salaries and allowances shall be paid out of public revenue.

Fees payable by employers. 14. (1) Every employer shall pay such fees as may be prescribed by the Governor in Executive Council.

(2) The amount of such fees shall be ascertained in the prescribed manner, and payment thereof shall be made at the prescribed times.

(3) Such ascertained amount may be sued for and recovered before a Court of Requests having jurisdiction in the place where such employer resides.

Penalty for non-payment of fees. 15. Where any fees payable by any employer in respect of any immigrant labourer shall remain unpaid for a period of one month after they shall become due, the employer shall be subject to a penalty at the rate of 10 per cent on the amount of such fees, to be paid and recovered together with such fees.

Registration of Employers.

Register of employers. 16. (1) It shall be the duty of every person employing any immigrant labourers at the time of the passing of this Ordinance, or desirous of becoming an employer of immigrant labourers after the passing of this Ordinance, to apply to the Controller to be registered as an employer,

and the Controller shall, subject to the provisions of the next succeeding section, cause the name and address of the applicant and such other particulars set forth in the application as may be prescribed to be entered in a register, to be called the "Register of Employers."

(2) Such application shall contain such particulars as may be prescribed.

(3) The Controller shall from time to time make such corrections in the "Register of Employers" as may be necessary to keep it up to date.

Refusal by
Controller to
register.

17. (1) The Controller may refuse to register any person as an employer who has not, to the satisfaction of the Controller, made proper provision for the housing accommodation, medical treatment, or employment of immigrant labourers.

(2) Any person aggrieved by any decision of the Controller under this section may, within ten days of such decision being communicated to him by a letter directed to his address as shown in his application, appeal to the Governor in Executive Council, whose decision shall be final.

(3) Any such person who at the time of the passing of this Ordinance was employing immigrant labourers may, notwithstanding anything in this Ordinance contained, continue to employ such labourers until such appeal, if any, has been heard, and the decision of the Governor in Executive Council has been given and published in the "Government Gazette".

Notice to
employer to
make proper
provision for
labourers.

18. (1) The Controller may give notice to an employer of immigrant labourers to make proper provision for the housing accommodation, medical treatment, or employment of such labourers within a reasonable time to be specified in such notice.

(2) If the employer does not comply with the terms of such notice, the Controller may cancel the registration of such employer by a letter directed to his address as shown on the Register of Employers.

(3) Any person aggrieved by any decision of the Controller under this section may, within ten days of such decision being communicated to him by a letter directed to his address as shown in the Register of Employers, appeal to the Governor in Executive Council, whose decision shall be final.

(4) Any such person may, notwithstanding anything in this Ordinance contained, continue to employ such labourers until such appeal, if any, has been heard and the decision of the Governor in Executive Council has been given and published in the "Government Gazette."

Recruiting.

Licences to
recruit.

19. (1) The Controller may, in his absolute discretion, from time to time issue licences to fit and proper persons entitling them to act as recruiters, either on behalf of the Controller, or on behalf of an employer to be named in such licence.

(2) There may be endorsed on the licence such conditions as may be prescribed.

(3) Such licences may be withdrawn by the Controller at his absolute discretion at any time.

Application
to Controller
for labourers.

20. (1) Any person who desires to obtain immigrant labourers through recruiters acting on behalf of the Controller may send in to the Controller an application in the prescribed form specifying the number of labourers he requires.

(2) The Controller may in his discretion refuse to accept any such application, or may accept the same subject to such conditions as he may impose.

Application
by head of
department.

21. The head of any department of the public service, or the chairman of any local authority, may, with the sanction of the Governor, send in an application under the last preceding section, and such head or chairman, as the case may be, shall be considered for the purposes of this Ordinance as the employer of any immigrant labourers that he may obtain.

Introduction of Labourers into the Colony.

Introduction
of labourers
into the
Colony.

22. (1) No immigrant labourers shall be introduced into the Colony unless they have been recruited by a recruiter licensed under the provisions of this Ordinance, and have been passed by an officer of the Immigration Department.

(2) Such immigrant labourers shall enter the Colony by such port or ports, and no other, as may be prescribed.

(3) Any person acting or attempting to act in contravention of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding six months, or to both.

Registration
of labourers
before they
are landed.

23. (1) Before any immigrant labourer is landed in the Colony, it shall be the duty of the Controller to enter or cause to be entered upon a register in the prescribed form and kept in the prescribed manner the prescribed particulars with respect to such labourer.

(2) Such register is referred to in this Ordinance as the Register of Immigrant Labourers.

(3) Such register shall from time to time be corrected and brought up to date from the copies of the labour registers, notifications, and returns forwarded to the Controller as provided for in this Ordinance, and from such other sources as are available to the Controller.

24. (1) Immediately upon the entry into territorial waters of any vessel containing immigrant labourers, the Controller shall take such labourers under his care and protection.

(2) Any person who molests or interferes with any such labourer, or induces or attempts to induce any such labourer to withdraw himself from the care or protection of the Controller, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

On entry into
Colony,
Controller to
take charge
of immigrant
labourers.

25. It shall be the duty of the Controller to see that, on their entry into the Colony, provision is made, free of charge to the labourers, for the proper feeding, medical treatment, and accommodation at such places as may be prescribed of all immigrant labourers, and of such dependents as may be permitted by the Controller to accompany them.

Provision of
food, etc., for
labourers.

Allotment and Distribution of Immigrant Labourers.

26. All immigrant labourers recruited by persons acting on behalf of the Controller shall be allotted amongst employers who have applied for such labourers in the prescribed manner and subject to the prescribed conditions.

Allotment of
immigrant
labourers.

27. It shall be the duty of the Controller to make all necessary and proper arrangements, free of charge to the labourer, to hand the immigrant labourer over to the employer to whom he has been allotted, or for whom he has been recruited.

Controller
to see to
distribution
of labourers.

28. The provisions of the last preceding section shall apply to such dependents of immigrant labourers accompanying such labourers as to the Controller shall seem meet.

Free
transporta-
tion, &c., for
dependents of
labourers.

Contract of Service.

29. (1) It shall be unlawful for any person to have in his employ or to allow to be employed on his behalf any immigrant labourer, unless—

(a) such person is registered, and continues to be registered, as an employer under this Ordinance; and

(b) such immigrant labourer is registered under the provisions of this Ordinance; or

(c) such immigrant labourer has been handed over to the employer by the Controller;

or

(d) such immigrant labourer has in his possession a discharge ticket as provided for in section 38 of this Ordinance, or a certificate by the Controller as provided for in sections 39 and 40 of this Ordinance.

Method of
employing
labourers.
(Section 23 of
No. 13 of
1889.)

(2) Nothing in the last preceding sub-section contained shall render it unlawful for an employer to hire the services of any immigrant labourer to any other person who is registered as an employer under this Ordinance, but in any such case such labourer shall be deemed, for the purposes of registration and other matters relating to the formation of the contract of hire and service, to continue in the employment of the person so hiring his services.

(3) Any person who employs or allows to be employed an immigrant labourer in contravention of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine which may extend to one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

30. (1) It shall be the duty of every employer to prepare a complete register (hereinafter called the Labour Register) of all immigrant labourers employed at the commencement of this Ordinance by him in such form as may be prescribed, and to continue to keep such a register in manner in this Ordinance provided.

Employer to
keep labour
register.
(Section 22 of
No. 13 of
1889.)

(2) Each such employer shall, within one month of the commencement of this Ordinance, forward to the Controller a copy of such register certified under the hand of the employer to be correct, and any employer who does not comply with the provisions of this sub-section, or who forwards to the Controller a copy of a register which in fact is not correct, shall be guilty of a summary offence, and shall be liable on conviction thereof before the court having jurisdiction in the place where such employer resides to a fine which may extend to five hundred rupees, and to a further fine not exceeding five rupees for every day during which such default continues.

(3) It shall be the duty of every employer who begins to employ immigrant labourers after the commencement of this Ordinance to keep a labour register in the prescribed form.

(4) Every employer shall forthwith enter on the labour register—

(a) the name of every immigrant labourer who is taken into his employment and the date thereof;

(b) the dates on which any such labourer—

(i) is discharged from his employment; or

(ii) goes on leave outside the Island with the permission of his employer; or

(iii) returns, on the termination of any leave, to the service of his employer; or

(iv) deserts from his employment; or

(v) dies while in his employment.

(5) Every employer shall on the prescribed form and at the prescribed times notify the Controller of all the occurrences in the last preceding sub-section mentioned.

(6) Any employer who refuses, neglects, or fails to comply with any of the provisions of the three last preceding sub-sections, or who makes any statement with regard to any of the said occurrences which he knows to be false, shall be guilty of a summary offence, and shall be liable on conviction thereof before the court having jurisdiction in the place where such employer resides to a fine not exceeding five hundred rupees, or to imprisonment of either description for any term not exceeding six months, or to both.

Contract of service. (Section 25 of No. 13 of 1889; section 5 of No. 13 of 1889.)

31. (1) Whenever the conditions laid down in section 29 (1) (a), (b), (c) and (d) of this Ordinance have been fulfilled, and the name of an immigrant labourer has been entered in the labour register by the employer, such labourer shall be deemed to have entered into a contract of hire and service for the period of one month with such employer, to be renewable from month to month.

(2) Every such contract shall be taken in law to be so renewed, unless one month's previous notice be given by either party to the other of his intention to determine the same at the expiry of one month from the day of giving such notice.

(Section 20 of No. 13 of 1889.)

(3) Notice of the intention of an immigrant labourer to determine his contract of service shall not be effectual in law, unless such labourer informs his employer of his desire to determine his contract of service in the prescribed manner.

Contract of hire and service invalid, except in accordance with the provisions of Ordinance.

32. No contract of hire and service under this Ordinance shall be valid, unless it is created in accordance with the provisions of this Ordinance.

Rights of labourer under invalid contract of hire.

33. Nothing in this Ordinance contained shall take away or diminish the rights of an immigrant labourer as against any person in whose service he may have been, although such person in so employing such labourer may have acted in contravention of the provisions of this Ordinance, and every such labourer shall continue to possess all such rights as he would have had against any such person if his contract of service had not been within the provisions of this Ordinance.

Subsistence of immigrant labourers on entry into service.

34. (1) It shall be the duty of every employer to provide every immigrant labourer who enters his employment with the means of subsistence in the prescribed manner, to the prescribed extent, and at the prescribed rates during the period between the commencement of such employment and the first payment of wages to such labourer.

(2) The employer may deduct from such first payment the cost of such means of subsistence.

(3) If any employer refuses or neglects to carry out the provisions of this section, the Controller may forthwith cancel the registration of such employer.

Employment of persons under ten.

35. No child of the age of ten years or under shall be employed as a labourer.

Certain provisions of Ordinance No. 11 of 1865 extended to labourers, and employers and to acts and defaults of third parties in respect of or in relation to them. (Section 4 of No. 13 of 1889.)

36. Except as in this Ordinance otherwise expressly provided, all the provisions, regulations, pains, penalties, forfeitures, and abatements enacted in Ordinance No. 11 of 1865, so far as they are applicable to monthly servants or their employers, shall extend, and be construed, deemed, and adjudged to extend, to immigrant labourers and employers under this Ordinance; and every act or default, by whomsoever done or committed, which is made punishable by the said Ordinance, if made or committed in respect of, or in relation to, monthly servants or their employers, shall in the like manner be punishable if done or committed in respect of, or in relation to, immigrant labourers and employers under this Ordinance.

Limitation of prosecution or punishment of labourers for certain offences. (Section 4-A of No. 13 of 1889.)

37. No criminal proceedings shall be instituted against any immigrant labourer for any offence under section 11 of Ordinance No. 11 of 1865, after six months shall have elapsed from the date when such offence is alleged to have been committed.

Discharge tickets. (Section 24 of No. 13 of 1889.)

38. (1) Whenever any immigrant labourer quits the service of any employer, having given the notice required by law, it shall be the duty of the employer to prepare a discharge ticket in the prescribed form and deliver it to such labourer on the day of the termination of his service.

(2) If the labourer entered the service of the employer on a discharge ticket, the employer shall file such discharge ticket in his office, and shall prepare a new discharge ticket and deliver it to such immigrant labourer.

(3) Any employer who acts in contravention of the provisions of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, and a further fine not exceeding five rupees for every day during which such default shall continue.

39. (1) On the application of any immigrant labourer, the Controller, if he is satisfied that such labourer quitted the service of his last employer for reasonable cause, or that he has not previously been employed in labour in the Colony, shall issue to such labourer a certificate to such effect in the prescribed form.

(2) The Controller may, in his discretion, also issue a similar certificate to any immigrant labourer applying for the same.

40. The Controller, if he is satisfied that any discharge ticket has been lost or destroyed, may, on the application of the labourer to whom the discharge ticket refers, and on payment to him by the applicant of a fee of fifty cents for each discharge ticket, issue to the applicant a certificate that such discharge ticket has been lost or destroyed.

41. Any employer neglecting or refusing to give the Controller all such information as he may require for the purpose of satisfying himself as in the two last preceding sections provided shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five hundred rupees.

42. Any person who—

(a) knowingly prepares or issues a discharge ticket which is false in any material particular; or

(b) fraudulently makes use of a genuine discharge ticket; or

(c) not being an employer issues a discharge ticket in respect of any immigrant labourer; or

(d) knowingly makes any false entry, alteration in, or addition to, any register required to be kept by this Ordinance;

shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

Wages.

43. (1) The employer shall pay to each immigrant labourer wages at the agreed rate.

(2) When wages are payable at a daily rate, the monthly wages shall be computed according to the number of days on which the labourer was able and willing to work and actually demanded employment, whether the employer was or was not able to provide him with work. Provided that an employer shall not be bound to provide for any labourer more than six days' work in the week.

44. (1) It shall be the duty of every employer to pay the wages of the immigrant labourers in his employment within fifteen days from the expiration of the month during which the wages have been earned. Provided always that—

(a) Such first-mentioned period may, at the request of the labourer and with the consent of the Controller, be extended to two months;

(b) Notwithstanding anything in this Ordinance contained, any sum not exceeding the amount due to the labourer in respect of current wages may be paid to him by an employer, and may be deducted from his wages at the time of the next payment thereof.

(2) When the contract of service is determined by one month's previous notice by the labourer to the employer or by the employer to the labourer, all wages due to the labourer for his period of service shall be paid in full to him by the employer on the day when such contract comes to an end.

(3) The wages of a labourer shall not be deemed to have been duly paid as required by this section, unless the full amount thereof has been paid into the hands of the labourer himself, subject only to such deductions as are authorized under this Ordinance.

(4) Where, owing to the absence of any labourer or to any other unavoidable cause, it has not been possible to pay him his wages within the time limited by this section, the employer shall forthwith notify in writing to the Controller the fact of such non-payment, and the sum due. The employer may retain the sum due to such labourer, and shall thereafter pay it to him at the earliest possible opportunity.

(5) Any employer who fails to pay the wages of any labourer, or to notify the Controller as hereinbefore in this section provided, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine which may extend to one hundred rupees on a first conviction, and to five hundred rupees on a second or subsequent conviction.

45. No immigrant labourer shall be liable to punishment for neglecting or refusing to work, or for quitting service without leave or reasonable cause, or for disobedience, or for neglect of duty, if at the time of such alleged offence the monthly wages earned by him shall not have been paid as required by section 44 of this Ordinance, or if the employer refuses or neglects to carry out the provisions of section 34 thereof.

46. Immigrant labourers employed on an estate shall, anything in the Ordinance No. 22 of 1871 to the contrary notwithstanding, have in respect of their wages, whatever the period for which such wages may be due, but not exceeding the sum of twenty rupees earned by each labourer, a first charge upon such estate, and such first charge shall have priority over all claims for rents, dues, or otherwise by any lessors, mortgagees, judgment, execution, or other creditors,

Discharge certificates issued by the Controller.

Power of Controller to issue new discharge tickets.

Penalty on employers refusing information.

Offences in relation to discharge tickets and labour registers. (Section 28 of No. 13 of 1889.)

Rate of wages.

Payment of wages.

Exemption from punishment when wages are overdue.

Wages made a first charge on estate.

or by any other persons whatever; and such first charge may be enforced by suit or by claim, if instituted or preferred within three months of the last day of the period in respect of which such wages are claimed.

Wages may be sued for in Court of Requests whatever the amount.

47. The wages due to any immigrant labourer or labourers, whatever may be the amount claimed, shall be sued for in a Court of Requests having in other respects jurisdiction in that behalf; and it shall be lawful for one or more immigrant labourers employed on such estate to institute one suit to recover the wages which may be due, not only to him or them, but also to any other immigrant labourer or labourers employed on the same estate whose name or names may appear in the plaint, provided that the court in which the suit is instituted is satisfied, after due inquiry, that the labourer or labourers suing is or are authorized to sue for and on behalf of the other or others so named as aforesaid.

Proprietor of estate to be party defendant.

48. In any suit instituted under this Ordinance against the proprietor of an estate, it shall be sufficient to designate the defendant as the "Proprietor of the — Estate," specifying the name of the estate on which the labourer had been employed, without naming the proprietor or proprietors thereof.

Right of mortgagee. (Section 13 of No. 13 of 1889.)

49. It shall be lawful for a mortgagee of an estate to pay and discharge the first charge created by this Ordinance in respect of such estate in favour of the labourers employed thereon; 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.

Proprietor may obtain judgment in same suit against others who have actually employed the labourers. (Section 14 of No. 13 of 1889.)

50. (1) When the proprietor of an estate is sued under this Ordinance, and he shall by proof adduced satisfy the court that he did not by himself or by his agent or agents employ all or any of the labourers who are suing him, but that they or any of them were employed on such estate by some other person as trustee, lessee, or mortgagee in possession, he shall be entitled, upon application by him made for that purpose, to have such other person made a party defendant in the same suit at any time before execution is levied, provided that such other person shall have had reasonable notice of such application, and shall have failed to show cause why he should not be joined in the suit.

(2) The court shall, if satisfied that such other person was primarily liable to pay the amount of wages sued for wholly or in part, and that the same has since the institution of the suit been paid and satisfied by such proprietor, enter a separate judgment therefor as between the proprietor and such other person, with such reasonable costs as it may think fit, and enforce such judgment against such other person by a writ of execution.

(3) No proceedings had as between such other person and such proprietor as aforesaid shall be permitted in any way to delay the progress of the suit as between the labourers and such proprietor.

Procedure. (Section 15 of No. 13 of 1889.)

51. The rules and orders in the schedule hereto shall apply to suits instituted under this Ordinance; and upon any matter not specially provided therein, including the payment of costs, the general rules and orders for Courts of Requests shall be followed in so far as the same may be applicable.

Returns.

Employers to send returns to the Controller.

52. (1) Every employer shall on the tenth day of January, on the tenth day of April, on the tenth day of July, and on the tenth day of October of each year make to the Controller true and correct returns of the immigrant labourers in his employment, for and in respect of the three months next immediately preceding each of the said four months, containing each and every of the particulars set forth in the prescribed form.

(2) The returns shall be made in the English language, and copies of such form shall be furnished by the Controller on the application of any employer free of charge.

(3) Any employer who shall refuse or neglect to make any such returns in the form and on the days herein specified shall be guilty of an offence, and shall be liable on conviction thereof before the court having jurisdiction where the person charged is to a fine not exceeding one hundred rupees; and the production of a certificate under the hand of the Controller to the effect that no returns have been received by him from the person charged shall in all judicial proceedings be *prima facie* evidence of such person having refused or neglected to make such returns, as the case may be.

Returns to be sent to Colonial Secretary.

53. (1) The Controller shall forward all such returns to the Colonial Secretary, who shall, so soon as convenient, publish, or cause to be published, in the "Government Gazette," a general abstract of the returns received for any one quarter in such form as may be prescribed.

(2) An annual general abstract of all such returns for each year shall be laid before the Legislative Council.

Repatriation.

Repatriation.

54. (1) Every immigrant labourer shall, subject to such conditions as may be prescribed, be entitled to be provided with free transportation to his place of abode, and to be furnished with food, free of charge, during the period of such transportation.

(2) The wife, and every son and daughter, and any other person dependent on an immigrant labourer shall, if such wife, son, daughter, or dependent accompanies him, be also, subject to such conditions as may be prescribed, entitled to be provided with free transportation and food as aforesaid.

Dwellings and Medical Treatment.

55. Except as may be prescribed, every employer shall provide suitable housing accommodation for immigrant labourers in his employ.

Suitable dwellings for labourers. Medical treatment generally.

56. Every employer shall make proper provision for the medical treatment of immigrant labourers in his employ, whether by the provision of hospital accommodation, medical attendants, medicines, or otherwise as may be necessary for securing the health of such labourers.

57. It shall be the duty of the Controller to make provision for the periodical inspection of such housing accommodation and of the provision made for medical treatment, and to make an annual report to the Governor on this subject.

Periodic inspection and report on dwellings.

58. Every employer shall make reasonable provision for the medical treatment, subsistence, and lodging of every female immigrant labourer giving birth to a child, and take care that she be not required to work for one month after the birth of such child, except on the report of a district medical officer.

Special provision for women after childbirth.

59. (1) Any person who—

Penalties for issuing, etc., *tundu*.

(a) issues or causes or permits to be issued a *tundu*; or
(b) accepts or agrees to accept any *tundu* or any obligation arising thereunder or intended to be imposed thereby; or

(c) gives or enters into any undertaking, express or implied, with regard to any *tundu*; to or in respect of any kangany, gang of immigrant labourers, or immigrant labourers, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding twenty thousand rupees, or to imprisonment of either description for any period not exceeding two years, or to both.

(2) For the purposes of this section the expression "*tundu*" means the document commonly called a *tundu*, and in use at the time of the commencement of this Ordinance, under the provisions of Ordinance No. 13 of 1889; it also includes any document, whatever its form may be, whereby the objects attained by a *tundu* at the time of the commencement of this Ordinance are sought to be attained after such commencement.

General.

60. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Controller to grant a certificate in the prescribed form declaring that the person therein named is not an immigrant labourer, and thereupon such person shall not be subject to the provisions of this Ordinance.

Certificate of exemption.

61. No immigrant labourer shall be liable to arrest under the provisions of "The Civil Procedure Code, 1889," in execution of a decree for money.

Immunity of labourers from arrest in civil process.

62. No person shall induce or attempt to induce any immigrant labourer to leave the employment of his employer by offering any inducement of any kind whatsoever, other than the payment of higher wages, to such labourer; and any person acting in contravention of this section shall be guilty of an offence, and shall be liable to a fine of one thousand rupees, or to imprisonment of either description for any period not exceeding two years, or to both.

No employer to offer inducements to labourers to leave service.

63. The Controller may, in any proceeding, civil or criminal, in which an immigrant labourer can take action under this Ordinance in his own name, take such action on behalf of such immigrant.

Controller may take action on behalf of labourer.

64. Every person of Indian descent engaged in labour shall *prima facie* be deemed to be an immigrant labourer.

Burden of proof.

65. (1) The registers kept by the Controller under this Ordinance and any extract from any such register purporting to be certified under the hand of the Controller shall be *prima facie* evidence of the facts therein stated.

Registers kept by Controller to be evidence.

(2) A certificate purporting to be certified under the hand of the Controller to the effect that the name of a particular person is not entered in any such register shall be *prima facie* evidence of the fact.

66. The Governor in Executive Council may, by Proclamation in the "Government Gazette," direct that such kinds of labour as are therein specified shall be deemed to be included in the definition of labour, or not to be included in such definition, as the case may be, for the purposes of this Ordinance.

Extension or restriction of definition of labour.

67. (1) The Governor in Executive Council may make regulations for the purpose of carrying out the provisions of this Ordinance.

Regulations.

(2) All such regulations shall be published in the "Government Gazette," and on such publication shall have the same force and effect as if they were contained in, and formed part of, this Ordinance.

68. Ordinances No. 13 of 1889, No. 7 of 1890, and No. 9 of 1909 are hereby repealed.

Repeal.

SCHEDULE.

Rules and Orders.

Commence-
ment of suit
by filing
plaint.Issue of
summons to
defendant and
subpoena to
superintend-
ent.Service of
summons
prescribed.
Superintend-
ent may
represent
proprietor.

Investigation.

Proviso.

Formal
decree.Two separate
writs may
issue.Judgment
how satisfied.Conveyance
by Fiscal.Distribution
of sum
deposited.Intervention
by mortgagee.

1. The suit shall commence by the filing of a plaint setting out the period or proximate period for which wages are due to the plaintiff, or to each of the plaintiffs if there be more than one 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 or plaintiffs, and shall at the same time issue a subpoena to the superintendent of the estate requiring him on 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.

2. The summons directed to the defendant shall be served upon the superintendent, or, if the Commissioner so directs, 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 in every case the chief clerk shall post a copy of such summons to the superintendent directed to such estate. It shall be competent for such superintendent to appear for and represent the defendant in the said suit and to adduce evidence therein.

3. On the day named in such summons, or on any other day to which the Commissioner may adjourn or postpone the inquiry, he shall summarily hear and determine the suit and give judgment thereon for such sum or sums as the plaintiff or plaintiffs may be found entitled to; and in determining the sum due to the plaintiff, or if there be more than one plaintiff, the sum due to each of the plaintiffs, the Commissioner shall make any deduction authorized to be made by an employer under this Ordinance, and the Commissioner shall in his judgment specify the extent to which the first charge shall apply, and shall declare the estate bound and executable for and in respect of such first charge.

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 first charge, he may, in the first instance, order accordingly.

4. As soon as may be after the judgment is pronounced a formal decree bearing the same date as the judgment shall be drawn by the Commissioner in the form hereto annexed, specifying (1) the total amount due to the plaintiffs and (2) the amount for which the estate is bound and executable for and in respect of the first charge.

5. The Commissioner on non-payment of the amount of the first charge shall issue a writ in the Form I hereunto annexed, and on non-payment of the balance (if any) due under the decree shall issue a writ in the Form II hereunto annexed, which writs may issue simultaneously or independently of each other.

6. The judgment in the suit shall not be declared satisfied or discharged save by payment into court of the total amount decreed, or by deposit in court of such amount by levy in execution; and when such judgment shall be satisfied by payment into court, or when payment shall be made of the first charge, the Commissioner shall issue a certificate to that effect under his hand to the person making such payment.

7. 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 free from all encumbrances.

8. Upon the payment into or deposit in court of the amount decreed or levied, the Commissioner shall pay or distribute the same to or among the plaintiff or plaintiffs adjudged to be entitled thereto, and make a record thereof.

9. 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.

Notice.

Notice. Notice is hereby given that a suit has been instituted in the Court of Requests of —, by — (insert number) immigrant labourers of — estate, against the proprietor or proprietors thereof, under the Ordinance No. — of 1919, for the recovery of their wages, amounting to Rs. —.

This — day of —, 19—.

Chief Clerk.

Form of Decree.

It is ordered and decreed that the proprietor of the — estate do forthwith pay into court for the use of the plaintiffs the sum of Rs. —, and that the said — estate (or, if a portion only of the estate is declared bound and executable, here describe definitely the said portion of the estate), bounded or reputed to be bounded on the north by —, east by —, south by —, and west by —, containing in extent — acres, is bound and executable to the plaintiffs for a first charge to the extent of Rs. —.

It is further ordered and decreed that the proprietor of the said estate do pay to the plaintiff the costs of this action.

Form of Writ I.

In the Court of Requests of —.

—, Plaintiff.

Vs.

Proprietor of — Estate, Defendant.

To the Fiscal of the — Province.

Whereas by a judgment 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 pay into court in the said suit the sum of Rs. —, and the said — estate (hereinafter described) was thereby declared bound and executable for a first charge to the amount of Rs. —; and whereas the proprietor of the said — estate hath made default in paying the said amount:

Levy and make of the said estate, bounded or reputed to be bounded on the north by —, east by —, south by —, and west by —, containing in extent — acres, declared by the judgment of this court bearing date the — day of —, bound and executable for a first charge to the extent of Rs. —, by seizure, and, if necessary, by sale thereof (or part thereof, to be defined), the sum of Rs. —, and have that money before this court on the — day of —, to render to the said —, and inform this court for what sum or sums, and to what person or persons, you have sold the said estate (or part thereof), and have you there this mandate.

By order of court,

Chief Clerk.

Form of Writ II.

In the Court of Requests of —.

—, Plaintiff.

Vs.

Proprietor of — Estate, Defendant.

To the Fiscal of the — Province.

Whereas by a judgment 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 pay into court the sum of Rs. —, of which sum the sum of Rs. — was declared a first charge on the — estate, and the balance sum of Rs. — has not been paid into court:

Levy and make of the houses, lands, goods, and credits of the proprietor of the said — estate by seizure, and, if necessary, by sale thereof the sum of Rs. —, and have the money before this court on the — day of —, to render to the said —, and inform this court for what sum or sums, and to what person or persons, you have sold the said property respectively, and have you there this mandate.

By order of court,

Chief Clerk.

Form of Conveyance by Fiscal.

Whereas by a judgment 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 pay into court, in the said suit, the sum of Rs. —, and the said estate (hereinafter described) was thereby declared bound and executable for a first charge to the amount of Rs. —; and whereas the proprietor of the — estate hath made default in paying 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

Conveyance
by Fiscal.

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 Rs. — 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 its and every of its appurtenance, by him the said —, his heirs, executors, administrators, and assigns, for ever, free from all incumbrances.

In witness whereof the said Fiscal hath hereunto inscribed his name at —, this — day of —, in the year of our Lord One thousand Nine hundred and —.

Witnesses.

Signature of Fiscal.

Memorandum on the Draft of "The Immigrant Labourers Ordinance, No. of 1919."

THIS Bill puts forward proposals for consolidating and amending the law relating to immigrant labourers, and it may be of advantage if its main provisions are grouped together and explained.

Scope of Bill.

Ordinance No. 13 of 1889 deals only with Indian labourers and Tulicans who are employed upon estates, but it is proposed under this Bill that all such persons who are engaged, not only on estates, but in the several kinds of work specified in section 2 of the Bill, should be brought within its purview.

Department of Immigrant Labour.

The number of immigrant labourers, their descendants, and dependents are said to amount to something like 750,000 persons; and that fact, coupled with the other and still more important fact, that the future of agriculture in the Colony depends on a steady immigration of such labourers, makes it essential that proper control should be exercised.

It is therefore proposed to establish a Department of Labour, with a Controller at its head (sections 3 and 4 of Bill). This official is to be its administrative head, and he and his subordinate officers are to see to the carrying out of the provisions of the Ordinance (sections 4 to 8 of Bills). In this connexion section 63, which allows of the Controller taking legal action on behalf of an immigrant labourer, may also be usefully considered. But, with a view to assisting the Controller in the performance of his duties, the Governor is to appoint a Board of not more than twelve persons to act in an advisory capacity (sections 9 and 10 of Bill).

Finance.

The Bill proposes the establishment of a fund, which is to be administered by the Controller, subject to the control of the Governor. It is to be derived from the sources specified in sections 12, 14 and 15 of the Bill, and is to meet all the expense of carrying out the provisions of the Bill other than the salaries and allowances of officers (section 13 (2) of Bill). It is thought that the general public interest is so bound up in the solution of the labour problem that it is but right to make these salaries and allowances payable out of public revenue.

Registration of Employers.

Proper control of the conditions of labour cannot be secured unless the persons who employ immigrant labourers can be readily ascertained; and provision is therefore made that all employers must be registered, and their names entered by the Controller in the Register of Employers (section 16 of Bill). Registration is not, however, to be automatic. The Controller may refuse to register any person who has not made proper provision for the housing accommodation, medical treatment, or employment of his labourers; and he is authorized to cancel a registration if an employer fails to keep up to the required standard in these respects (sections 17 and 18 of Bill). As the refusal or cancellation of registration makes it unlawful for any person to employ an immigrant labourer (section 29 of the Bill), and may involve serious injury to an employer, provision is made in those sections for an appeal to the Governor in Executive Council.

Recruiting.

The existing method of obtaining labourers is well known. Each individual employer sends an agent to India to recruit labourers for him, and the Government has no control whatever over either the employer or his agent. But by section 19 of the Bill provision is made for the licensing of recruiters and for the withdrawal of their licences; and under section 22 only labourers recruited by a duly licensed recruiter can be introduced into the Colony.

After careful consideration a further change is proposed to be made in the existing method of recruiting. For not only may the employer send out licensed recruiters, but under section 19 the Controller may commission recruiters to obtain labourers on his behalf with a view to their allotment amongst applying employers and heads of departments (sections 20 and 21 of Bill).

Introduction of Labourers into Colony.

Labourers can only be introduced into the Colony through prescribed ports (section 22 (2) of Bill); it is obvious that such a provision is essential if the Controller is to exercise the necessary supervision. Further, before any labourer enters the Colony, his name is to be registered in the Register of Immigrant Labourers (section 23 of Bill); and immediately upon his entry into territorial waters, the Controller is charged with the duty of taking him under his care and protection (section 24 of Bill); and of providing such labourer and any dependents permitted to accompany him with food, medical treatment, and accommodation, free of charge (section 25 of Bill).

The subject of the indebtedness of the labourer will be dealt with more fully in a later part of this Memorandum; but attention may be called to this particular provision, and also to that contained in section 13 (1) (d) and section 27, as showing the clear intention of the Bill to take the labourer to his employment and place him there free of debt.

Allotment and Distribution.

The care of, and control over, the labourer to be exercised by the Controller does not stop at the port of entry; for under sections 27 and 28 of the Bill that officer is to make all necessary and proper arrangements, free of charge to the labourer, to hand him and his dependents, if any, over to his employer.

Contract of Service.

If the necessary care and protection are to be afforded to the immigrant labourer, it is essential that power should be taken to control the contract of service entered into by him with his employer. With this object careful provision is made for the registration of all labourers by the employer, and for copies of all Labour Registers being sent to the Controller (section 30 of Bill); and in section 29 the conditions precedent to the right to enter into a contract of service are laid down. Generally it may be said that these conditions require that the employer should be registered and that either the labourer should be registered (as will be the case where a labourer is in service at the commencement of the Ordinance), or that he should have been handed over by the Controller to the employer, or have a discharge ticket under section 38 of the Bill, or a certificate from the Controller under sections 39 and 40.

Under section 26 of Ordinance No. 13 of 1889 a Police Magistrate was empowered to issue a certificate if satisfied that the applicant had not been employed on an estate for the thirty-six months immediately preceding the application, or that he had quitted his employment for reasonable cause. By section 39 of the Bill the right to issue these certificates is given to the Controller, and a much wider discretion is given to him as to their issue.

Provided that the conditions above referred to are fulfilled, and when the name of the labourer has been entered in the Labour Register, a monthly contract of service is then, by section 31 of the Bill, created between the employer and the labourer. This contract is renewed from month to month, but is determinable by one month's notice; and in the case of the labourer, so as to ensure that he really desires to quit his service, provision is made that this notice shall be given in the prescribed manner.

It will also be observed as bearing on the subject of the contract of service that, following the example of section 4 of Ordinance No. 13 of 1889, provision is made in section 36 of the Bill that, except as therein expressly provided, the provisions of that Ordinance are to apply to contracts of service under the Bill.

Wages.

The leading principle as regards wages is stated in section 44 (3) of the Bill. It is there provided that a labourer is not duly paid unless the full amount agreed to be paid to him as wages is in fact paid into his hands, subject only to such deductions as are authorized under the Bill. These deductions are:—

- (a) Any amount advanced to the labourer under section 34 of the Bill for his subsistence at the commencement of his employment; and
- (b) any sum from time to time paid to him not exceeding the amount due to him in respect of current wages under section 44 (1) (b).

It is obvious that to allow of these deductions are in the best interests of the labourer himself. Under section 34 of the Bill the employer is bound to ration the labourer during the first days of his service, and so the need for the labourer to run into debt for the means of subsistence is obviated; and, therefore, there can be no objection in allowing this deduction, as well as a deduction in respect of advances of wages actually earned but not payable being made.

Wages are to be paid within fifteen days from the expiration of the month during which they are earned, but the former period may be extended to two months with the consent of the Controller (section 44 (1) (a) of Bill); and in the event of the determination of the contract, the employer is to pay the labourer up in full on the day when the contract comes to an end (section 44 (2)). Special provision is also made for the case where, owing to the absence of the labourer or any other unavoidable cause, it has not been possible to pay a labourer within the prescribed times (section 44 (4)).

Ordinance No. 13 of 1889 contained in sections 9 to 15 thereof an easy means of recovering wages due to labourers. These wages were made a first charge on the estate on which they were employed, and were recoverable in a Court of Requests. Sections 47 to 51 of the Bill contain similar provisions, also limited to estates.

The scope of the Bill covers labourers also employed at work other than on estates, but it would be difficult to fix a charge in favour of labourers employed, for instance, in a brick-making business, without hampering the ordinary conduct of such business.

Repatriation.

In section 54 of the Bill provision is made for the repatriation, on conditions, of immigrant labourers and their dependents, free of charge both as regards transportation and food during the journey. The conditions are not set out in the Bill, as it is obvious that, as therein provided, they can be better laid down by means of regulations.

Dwellings and Medical Treatment.

Sections 55 and 56 require the employer to make proper provision for the housing accommodation and medical treatment of his labourers. No punishment is laid down in these sections for failure to perform this duty, as this is unnecessary in view of section 18 of the Bill. The severest, as well as the most effective, way to deal with a defaulting employer is by cancelling his registration and so making it unlawful under section 29 for him to employ any immigrant labourers.

Attention may also be called to section 57 of the Bill, which requires the Controller to take steps for the periodical inspection of the housing accommodation and of the provision for medical treatment and reporting thereon annually to the Governor; and to section 58, which deals with the employment of female immigrants after childbirth.

Indebtedness.

In the course of this Memorandum attention has been called to the provisions of sections 13 (1) (a), 25, 27, 28, 34, and 44 (1) (b) and (3) of the Bill, which, it is hoped, will ensure a labourer being placed at his work free of debt. But these provisions only affect the future immigrant; they would not affect the problem of the immigrants introduced before the passing of the Bill.

It can be argued that it is unwise for the Legislature to interfere with a condition of indebtedness which has been lawfully created under the existing law, and that those who are in debt should be allowed to work out their own salvation; but the fact cannot be overlooked that to have on the same estate the majority of the labourers heavily in debt, while a small but increasing number of labourers come on to the estate free of debt, would probably not make for industrial peace.

Additional reasons for giving serious attention to this problem are that it has been the object of criticism by the Government of India, and that in the concluding paragraph of their Report dated June 5, 1918, the Committee appointed by His Excellency the Governor to consider the question of the recruiting of Indian labour for Ceylon called serious attention to the gravity of the labour situation in this respect.

On the other hand, it is necessary to remember that to deal with the indebtedness of the immigrant labourer must involve the rights of the persons who have advanced the money; and it is only fair that their views should be elicited and taken into serious consideration.

It is for this reason that no specific provisions dealing with the subject of indebtedness are contained in the Bill; but it is felt that this question should be thoroughly and publicly discussed; and, with a view to raising the issues involved in concrete shape, the following provisions are put forward merely with a view to raising such discussion:—

A.—It is hereby enacted that, as from the commencement of this Ordinance, any debt owing by an immigrant labourer to any employer, or, save as hereinafter in this Ordinance excepted, by any such labourer to any kangany, or by any kangany to any employer, and any security held or given in respect of such debt, shall be and the same is hereby declared to be extinguished, and not recoverable by any process of law in any court in this Colony.

Existing debts
not recover-
able from
immigrant
labourers.

B.—(1) Immediately upon the passing of this Ordinance the Governor shall appoint a Commissioner to inquire into the debts owing by immigrant labourers to any kangany and by any kangany to any employer.

(2) The Commissioner may, upon such evidence as he may in his absolute discretion think reliable, fix, by order in writing under his hand, the amount due by any such labourers to the kangany and by any such kangany to the employer.

(3) The amount so found due by any such labourers to any kangany shall be a debt owing by the employer to such kangany, and shall be payable by such employer in such instalments spread over five years as the Commissioner may by his order direct; provided that any debt owing by the kangany to the employer shall be set off against any debt owing to the kangany by the employer under the provisions of this Ordinance, and such order shall be only in respect of the balance, if any, owing by the employer to the kangany.

(4) Any such order may be made an order of the Court of Requests having jurisdiction where the employer resides, and execution may be had thereon as in the case of any order made by such court.

C.—(1) As from the commencement of this Ordinance no transaction based upon credit given to any immigrant labourer while registered under this Ordinance shall, except as in this Ordinance expressly provided, be enforceable by any employer or kangany as against any such labourer.

(2) The Governor in Executive Council may from time to time, by Proclamation in the *Government Gazette*, exempt any particular form of transaction from the operation of this section.

It will be observed that clause A provides that, as from its passage into law, the indebtedness of an immigrant labourer to an employer or to a kangany is, so far as the labourer is concerned, utterly wiped out. As it would appear futile to pass such a provision with regard to the past without providing for the future, the incurring of debt by immigrant labourers is prohibited by clause C. The object of clause B is to deal specially with the case of the 'solvent' kangany; for in so far as a kangany's debt to the employer is greater than the amount owing to him by the members of his gang, the effect of clause A would be to wipe out the kangany's indebtedness also.

It is obvious that the position of the solvent kangany is one that cannot, without great difficulties, be left to be litigated in the ordinary manner. A most serious congestion of the work of the courts would arise, and the expense of clearing up the situation would be immense.

Provision is therefore made in clause B for the appointment of a Commissioner to settle all cases in dispute. It is hoped and believed that in a large number of cases employers and their kanganies would be able to come to an amicable settlement as to the amount payable; but where this is not possible, the Commissioner could be appealed to.

The Commissioner would not be bound by the strict rules of evidence, but would be empowered to act on such evidence as he thinks reliable. He is also directed to find out the respective debts of the labourers to the kangany and of the kangany to the employer, and the amount of the debt of the labourers to the kangany is declared to be a liability of the employer to the kangany; but the former may set off any amount due to him by the latter, and the order for payment to be made by the Commissioner would be in respect of this balance only. For purposes of execution it is laid down that any such order of the Commissioner may be made an order of the Court of Requests.

The present condition of indebtedness in the case of the labourer is largely the result of the *tundu* system, and it is therefore necessary to make provision for its abolition, and to ensure, so far as it is possible, that it should not creep in again either in its present shape or in a modified one. For that purpose section 59 is introduced into the Bill; it is comprehensive in terms and, it is hoped, will be able effectually to deal with any attempt to re-introduce a system which is now generally regarded as a vicious one.

There are other provisions of the Bill to which specific reference has not been made, as they deal with matters of form and procedure, and are readily understood on a perusal of the Bill.

ATTORNEY-GENERAL'S CHAMBERS,
Colombo, 22nd July 1919.

H. C. GOLLAN,
Attorney-General.

Debts due
from
immigrant
labourers to
kanganies
and by
kanganies to
employers.

Transactions
based on
credit not
enforceable
by employer
or kangany
against
labourer.

12

NOTES CONNECTED WITH G.O. Nos. 1300-1301, HOME (MISCELLANEOUS),
DATED 10TH SEPTEMBER 1919.

[SUBJECT.—*Emigration—Ceylon.*]

*From the Government of India, Department of Commerce and Industry, No. 5467, dated
22nd July 1919.*

[Letter No. 5273-1, Home (Miscellaneous), dated 7th August 1919.]

From the India Office, Judicial and Public Department, No. 2732 J. and P./19, dated 1st July 1919.

HOME (MISCELLANEOUS) DEPARTMENT.

Advance copy to the Honourable Member, Revenue (Special).

R. RAMACHANDRA RAO—13-8-19.

As only one copy of the report has been received, it is submitted the case may be circulated
to His Excellency the Governor in advance for perusal.

S.N.P.—14-8-19.

C. H. BROWN—14-8-19.

R.R.—15-8-19.

This is quite interesting but it would have been well if we could have had it before our
meeting with the delegates from Ceylon.

W[ILLINGTON]—16-8-19.

(*Demi-official*—from the Hon'ble Mr. L. DAVIDSON, C.S.I., I.C.S., Member of
Council.

To—the Hon'ble Mr. N. E. MARJORIBANKS, C.I.E., I.C.S., Acting Chief Secretary
to Government.

Dated—Ootacamund, the 22nd August 1919.

His Excellency told me this morning that he would be grateful if you could find time for a
brief note on the accompanying article on "Indian Labour in Ceylon" taken from the *Hindu* of
the 19th August, and also for your advice whether it is expedient now to publish any communiqué
regarding our conference with the deputation from Ceylon.

It seems a shame to trouble you in this matter on the eve of your departure. My excuse
must be that you know so much more about it than any one else.

Extract from the "Hindu", dated 19th August 1919.

INDIAN LABOUR IN CEYLON.

The part played by the Government of Madras in the negotiations that took place early last
month in respect of the question of Indian labour in Ceylon has not yet transpired despite
the public protest made against the secrecy of the transaction. The report of the Committee
appointed by the Ceylon Government has now been issued and the text of the draft Ordinance
which it has recommended should be passed is published elsewhere. We are absolutely in the
dark as to the extent to which the Local Government have approved of the proposals made in the
report and it is very regrettable that, at a time when His Excellency was publicly expressing
his desire to establish an agency for interpreting the actions of Government to the people, the
details of the important question should have been debated upon, and perhaps decided in secret
conclave. The Ceylon Committee have proposed a few remedial measures of first rate
importance; but all of them have proceeded from the point of the view of one who is anxious to
be no more bothered by the difficulty of labour scarcity which would spell ruin to Ceylon
agriculture. There is little or no thought bestowed on such questions as affect the person of
the labourers, his freedom to move about and immunity from persecution for trivial offences.
The main proposals may be thus summarized. The Ceylon Government are to assist immigration

of Indian coolies and are to be responsible for control and supervision of recruitment in India, for their being taken over free to Ceylon, for their distribution in that colony to employers, and for securing proper house accommodation and medical relief to labourers. Labourers and employers are to be registered and recruitment except under licence is to be forbidden. These duties will be discharged on behalf of the Government by an Indian Immigration Board consisting of four officials and five non-officials nominated by the Governor of Ceylon. Labourers are to be taken to Ceylon free and are to begin their work free from debt; the *tundu* system is to be abolished and the existing debts of Indian labourers are to be extinguished within a fixed number of years. The Committee thinks that its recommendations would prevent a recurrence of indebtedness, while the establishment of a semi-Government department for the registration and inspection of Indian labourers 'will be a new guarantee that their health, interests and general welfare are being properly cared for.' This system of aided emigration, as a matter of fact, is borrowed by the Committee from the system prevailing in the Federated Malay States, but before we come to the efficacy of this expedient, we should express our surprise and indignation that the Committee should have altogether ignored the other abuses prevalent in Ceylon which have grown into a grave and unbearable scandal. There is first the question of imprisonment for labour offences. The report is absolutely silent on this point, though the draft Ordinance explicitly says that the provisions of the old Ordinance authorizing and legalizing these brutal punishments are to be applicable to the labourers under the new Ordinance. In the Federated Malay States, disputes as to wages and complaints of disobedience, negligence, carelessness or other misconduct may be laid before a Magistrate who may levy a fine not exceeding twenty-five dollars, and imprisonment for default of payment of fine may extend to 30 days. The Marjoribanks-Maricair Commission says that the employers in Malay States were nearly all of opinion that there would be practically no objection to the abolition of the penal provisions of the Labour Code, at any rate so far as the penalty of imprisonment in default was concerned. But in Ceylon we have a more barbarous law, little removed from slavery and it enjoins that a servant—a labourer is a servant according to the law—refusing to work without reasonable cause or guilty of drunkenness, wilful disobedience of orders, insolence, or gross neglect of duty or who shall quit his employer's service without the prescribed month's notice, shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 50 or with both and that a servant making a false statement as to his former employment, or denying his former employment, shall be punishable with a fine of Rs. 30 or with imprisonment with or without hard labour for a period not exceeding three months or with both. The Ceylon Committee which is so solicitous to protect the agricultural industry and has proposed to adopt the Malaya system might have condescended to examine this particular abuse and suggest suitable remedies. And it is because it ignores it altogether that one is tempted to infer that it cared a brass farthing so far as the personal liberty of the labourer was concerned to inquiry which fails to tackle this problem has any claim for the consideration by the Indian public. There is again the long-standing grievance regarding the low wages of Indian labourers, which the Committee has not cared to go into, though it is clear that securing of the labourer from getting into debt without at the same time enabling him to get decent wages is futile. The Ordinance reproduces the theoretical rule about a month's notice in the case of labourers, who desire to quit service but we fail to notice that any steps are suggested to render the pinpricks, the petty annoyance and oppression on the part of the employees during the one month impossible. This abuse is prevalent to a great extent also in Malaya where the system of aided emigration is in force, and labour there is admitted to be restless and the Marjoribanks-Maricair report records the fact that one-third of the labour force there moves about from one employer to another annually. Assisting emigration and at the same time controlling and supervising employment of labour are incompatible functions, and in any case it is open to question whether the approximation of conditions in Ceylon to those in Malaya is the best possible solution of a grave question, especially when the glaring evils of the Malayan system are known and remain yet to be removed. But it is the duty of the Madras Government to resolutely refuse the invitation of the Ceylon Government to walk into their parlour. As we have pointed out, there are crying evils of the system which the Committee have entirely ignored and it is for the Local Government to examine whether there are not openings for labour in Southern India which would absorb the force now available and more.

Demi-official—from the Hon'ble Mr. N. E. MARJORIBANKS, C.I.E., I.C.S., Acting Chief Secretary to Government.

To—H. BROWN, Esq., I.C.S., Under Secretary to Government, Home (Miscellaneous) Department.

Dated—Ootacamund, the 22nd August 1919.

With Mr. Ramachandra Rao's permission will you please send me again the file about the draft Ordinance and recent conference and a copy of Maricair and my report.

Submitted.

2. Sorry I could not get it finished before leaving Ootacamund for Madras.

N. E. MARJORIBANKS—28-8-19.

The *Hindu* grudgingly admits that "the Ceylon Committee have proposed a few remedial measures of first rate importance" but takes away the grace of this admission by alleging that "all of them have proceeded from the point of view of one who is anxious to be no more bothered by the difficulty of labour scarcity which would spell ruin to Ceylon agriculture".

2. Putting generalities and malice aside, the "crying evils" which the *Hindu* maintains the committee have ignored are the following: First the question of imprisonment for labour offences. On this subject I would invite attention to paragraphs 41 to 44 of Mr. Maricair's and my report. It will be seen that (1) the penal laws affecting the estate labourer are not special to his case but a general law that applies in Ceylon to all servants labourers and journeymen artificers; (2) that the number of cases filed against estate labourer is about 1 per 100 labourers and of these cases only about half come into court finally and one-third are convicted; and (3) that but for the debt system which induces an employer to prosecute it is doubtful whether there would be any appreciable number of prosecutions at all.

3. The facts may be contrasted with the *Hindu's* language 'a barbarous law' 'little removed from slavery'.

4. The next point referred to is "the longstanding grievance regarding the low wages of Indian labourers". This is again a mere assertion or assumption. Information on the subject of wages and work of the estate labourers in Ceylon will be found in paragraphs 36 to 39 of our report—pages 11 and 12. And the facts there given may be compared with Mr. Gray's account of the panchama labourers in this Presidency.

5. The last point to which the *Hindu* refers is that they "fail to notice that any steps are suggested to render the pinpricks, the petty annoyance and oppression on the part of the employees (sic) during the one month impossible".

'Pinpricks,' 'petty annoyance and oppression'.—The argument is childish I submit. The labourer is not a neurotic journalist but one hardened to the slings and arrows of outrageous fortune.

N.E.M.—28-8-19.

Mr. Marjoribanks deals effectively with the *Hindu* article of the 19th August, but he has not answered my further request for his advice as to the issue of any communiqué on the subject of our conference with the Ceylon deputation.

2. This point was discussed at pages 27-29 in the notes to G.O. No. 1130, dated 23rd July 1919, and the outcome was the demi-official No. 2918-1, dated 19th July 1919, to Mr. Gwynn (page 29) and the specific request to the Ceylon Government in our letter No. 1131, dated 23rd July 1919, for "copies of any matter relating to the well being and control of immigrant labourers which (they) might decide to communicate to the Press".

3. The answer to that inquiry is a letter from the Colonial Secretary, dated 15th August 1919, sending us copies of—

(1) a report on recruitment of Indian Labour (42 pages of print on sale at the Ceylon Government record office—which we need not, I think, reprint and publish),

These we may republish—Editors' Table. (2) a draft of the new Ordinance, (3) a memorandum on it.

L.D.—31-8-19.

Items (2) and (3) differ somewhat from the advance copies we received and discussed with the Ceylon deputation in June: and I do not think (as was suggested to me) that we could properly publish the minutes of our confidential discussion (pages 22-27 of notes to G.O. No. 1130, dated 23rd July 1919), which indeed would be in places unintelligible without the earlier and unpublished drafts of the Bill and memorandum. We certainly could not do so without the assent of Ceylon and I do not believe that would be given.

4. The Ceylon Government should, I think, receive copies of the minutes (these should be given paragraph numbers) of the discussion. The Secretariat should examine the original and final copies of the draft Ordinance and memorandum and point out the variations, indicating such as were apparently due to the discussion.

L. D[AVISON]—31-8-19.)

(The notes to G.O. No. 1130, dated 23rd July 1919, ought to have been printed up before now: are they now in the press?)

(The notes have been printed and a copy is put up).

A. Y. G. CAMPBELL—1-9-19.

W[ILLINGDON]—2-9-19.

4 NOTES TO G.O. Nos. 1300-1301, HOME (MISCELLANEOUS), 10TH SEPTEMBER 1919

HOME (MISCELLANEOUS) DEPARTMENT.

A draft letter acknowledging the receipt of the six copies of the Report, Ordinance and Memorandum forwarded with the Colonial Secretary's letters, and forwarding a copy of the minutes of discussion with the deputation (paragraph 4 of Honourable Member's note, page 3 ante) is submitted for approval.

2. With reference to the order of the Hon'ble Mr. Davidson on the margin of page 3 ante a draft order is submitted.

3. The comparison of the original with the present Ordinance ordered by the Hon'ble Mr. Davidson in paragraph 4 of his note on page 3 ante and the expression of the views of this Government on the report and Ordinance (please see paragraph 2 of Mr. Holderness's letter, dated 19th June 1919) may be left to be taken up in the Revenue (Special) Department after the issue of the letter and the order referred to in the two paragraphs above.

Note.

R.R.—10-9-19.

S.N.P.—9-9-19.

S.A.—9-9-19.

C. H. BROWN—10-9-19.

R. RAMACHANDRA RAO—10-9-19.

[G.O. Nos. 1300-1301, Home (Miscellaneous), dated 10th September 1919.]

Letter.

No 1300

10.9.19

Home (Misc) Dept.

To

The Hon'ble The Colonial Secretary
Colombo.
(with copy of minutes of discussion)

Sir,

I am directed to acknowledge with thanks the receipt of the papers forwarded with your letters Nos 25060 and 27029 dated the 15th and the 23rd August 1919, and to forward herewith for information a copy of the minutes of discussion between the S.D.P. Madras and the members of the Ceylon deputation

9.9.19

10.9.19

10.9.19

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P.T.O.

Rai

10.9.19

M.12.13.C.F.

Enders

Emigration - Ceylon. Publishing the draft of an ordinance to provide for the well-being and control of Immigrant Labourers with a memorandum on the draft issued by His Excellency the Governor of Ceylon.

READ AGAIN G.O. No., dated 191 .
 " " " " , " 191 .

READ ALSO:-

C. No., From the , No., dated 191 .
 " " , " " , " 191 .
 " " , " " , " 191 .

ORDER.
 Press.

No. 1301, dated 10 Sep 1919.

The draft of an Ordinance to provide for the well-being and control of Immigrant Labourers with a memorandum on the draft issued by His Excellency the Governor of Ceylon is printed as an annexure to these proceedings.

2. The report of a Committee appointed by His Excellency the Governor of Ceylon to consider the recruiting of Indian labour for Ceylon and especially the desirability of a greater measure of Government control and supervision is published by the Government of Ceylon. This is on sale at the Government Record Office, Colombo at Re.1 a copy.

S.N.P.
 9-9-1919.
 S.A.
 9-9-1919

ANNEXURE.

To
 The Officer in charge,
 Publicity Bureau. (with a copy of Report)
 Revenue (Spl.) Dept., with notes.

Editor's Table (ordn only)
 with
 Annexure

(Recorded) & for approval
Colly 19/9/19

HOME (MISCELLANEOUS) DEPARTMENT
G.O. No. 1301, 10th September 1919
Emigration—Ceylon

Publishing the draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum on the draft issued by His Excellency the Governor of Ceylon.

Read—the following papers :—

I
Letter—from G. L. CORBETT, Esq., I.C.S., Deputy Secretary to the Government of India, Department of Commerce and Industry.
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Simla, the 22nd July 1919.
No.—5467.

With reference to the correspondence ending with the telegram from this Department No. 3342-D., dated the 14th March 1918, I am directed to say that the Government of India have received from the India Office a copy of the report of the Committee appointed by the Ceylon Government to inquire into the question of the recruitment of Indian labour for the Colony. As only one copy has been received, I am to suggest that the Government of Madras should obtain copies direct from the Ceylon Government, if they have not already been supplied.

II
Letter—from C. H. BROWN, Esq., I.C.S., Under Secretary to the Government of Madras, Home (Miscellaneous) Department.
To—the Hon'ble the Colonial Secretary, Colombo.
Dated—Ootacamund, the 7th August 1919.
No.—Ref. 5273-1.

I am directed to refer to the correspondence ending with my letter No. 284, Home (Miscellaneous), dated the 20th March 1918, and to request that this Government may be furnished with six copies of the report of the Committee appointed by the Ceylon Government to inquire into the question of recruitment of Indian labour for the Colony. Information has been received from the Government of India that a copy of the report has been received by that Government from the India Office.

III
Letter—from J. G. FERNAND, Acting Secretary, Judicial and Public Department, India Office, Whitehall.
To—the Chief Secretary to the Government of Madras.
Dated—London, S.W.1, the 1st July 1919.
No.—J. & P. 2732/19.

I forward, for information, copy of the papers noted in the margin on the subject From Colonial Office, dated 29th April 1919, of the Report of a Committee appointed by and enclosures including report. the Governor of Ceylon on the Recruitment of Indian Labour for Ceylon.
To Colonial Office, dated 19th June 1919.

ENCLOSURES
(i)

No. 16531.
Subject.—Recruitment of Indian labour for Ceylon.
Reference to previous correspondence: Letter to the Colonial Office of the 19th of February.
No. J. & P. 114/19.

From Government, Ceylon, 14th February.
Colonial Office, Downing Street,
29th April 1919.
Transmitted by direction of the Secretary of State for the Colonies.

Pen
Please compare carefully
with original & strike off

SM
155-9

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155-9

(1)

CEYLON,
14th February 1919.

My Lord,

With reference to Mr. Long's Confidential despatch of the 11th December 1918, relative to the report of the Committee appointed by Sir John Anderson to consider the question of the recruitment of Indian labour for Ceylon, and, in particular, the desirability of a greater measure of control and supervision being exercised by the Government of Ceylon in this connexion, I have the honour to enclose copies of letters received from the Planters' Association of Ceylon and the Estate Agents' Association with regard to the recommendations made by the Committee.

2. I recently discussed the whole question with the Attorney-General and five representative members of the planting and mercantile communities, viz., Mr. T. L. Villiers, Mr. T. Y. Wright, Mr. J. B. Coles, Mr. R. G. Coombe, and Sir J. Thomson Broom, and it was decided at the meeting that the gentlemen named should draw up for consideration a scheme for the inauguration of a Labour Department of Government under an officer whose designation would be 'Controller of Labour', or 'Protector of Immigrants.'

3. It was also decided that, prior to taking any definite steps to deal with the 'tundu' system (referred to in paragraph 24 of the Committee's report), the Attorney-General should prepare a draft Ordinance, on the lines of a similar Ordinance in force in Nigeria, making it an offence to advance money to any Indian immigrant.

I have, etc.,
W. H. MANNING,
Governor, etc.

The Right Hon'ble Viscount Milner, G.C.B., G.C.M.G.
(2)

Recruitment of Indian labour for Ceylon.

KANDY,
13th November 1918.

Sir,

With reference to your letter of the 17th July last addressed to my Chairman asking for the opinion of this Association on the report of the Committee appointed to deal with the above subject, I have the honour to enclose herein copy of a resolution passed by the Committee of this Association at its meeting held on the 8th instant.

I am, etc.
N. I. LEE,

Acting Secretary, Planters' Association of Ceylon (Incorporated).

Copy of resolution referred to—

Resolved "That this Association approves of the recommendations of the Labour Committee on general lines, but at the same time would urge upon Government the necessity of consulting all the interests concerned as regards the eradication of existing debts, the result of which would probably necessitate the appointment by Government of a special Commission to deal with this particular subject."

The Hon'ble the Colonial Secretary.

(3)

THE ESTATE AGENTS' ASSOCIATION.
Colombo, 4th October 1918.

Hon'ble the Colonial Secretary.

Recruitment of Indian labour.

Sir,

In reply to your letter of July 17th last, I have the honour to inform you that the report on the recruitment of Indian labour for Ceylon was submitted to the members of this Association confidentially and discussed at meetings held on the 25th ultimo and 2nd instant.

The Committee in their report emphasize the opinion that no organization for improving the methods by which, and the conditions under which labour is recruited for Ceylon, can or should be attempted unless some scheme for eradicating the existing indebtedness of the Indian Estate Labourers now in Ceylon has been introduced first, or is introduced concurrently.

This question of the indebtedness of the labourers has been engaging the attention of all employers for some years past, both in Ceylon and in London, and so recently as 1916 a Committee appointed by the Proprietors' Labour Federation drew up a report and a draft Ordinance for dealing with the situation.

The object that this Committee had in view was to liberate Indian labour in Ceylon from debt, but whilst having every sympathy with this desire, the scheme put forward was generally regarded as unlikely to attain this object. It was considered at a meeting in London of proprietors and shareholders of companies holding property in Ceylon and representing a very large percentage of the proprietary interests in the Island, which decided that the scheme would not accomplish the object aimed at and the proposals were therefore vetoed. This Association, which represents many London proprietors and companies registered locally, endorsed the opinion that legislation should not be asked for at that juncture.

The same objection as prevailed at that time prevail with the present proposals contained in paragraph 24, and in the opinion of this Association no remedy will lie in the writing off of advances unless it is accompanied by the introduction of an Ordinance or Ordinances dealing with the power of a coolie to borrow money, a habit so ingrained in him and in such wide practice both in India and Ceylon that the Ordinance would have to be so drastic as to interfere seriously with the liberty of the subject. At the same time I would point out that since this matter came so prominently before proprietors and planters many efforts have been made to reduce the indebtedness of the coolie. On the great majority of estates, the accounts between the kangannies and the labourer are kept by the Superintendent. The travelling expenses of coolies from India to Ceylon are usually paid by the estate after adequate precaution has been taken to see that they are bona fide coast coolies. The debts of coolies who die, having no assets, are generally written off.

I would also submit that the evidence given before the Committee shows that the conditions under which the Indian labourer now works in Ceylon leave little room for unfavourable comment, and though the utility of handing over the present system of recruiting to a board under Government control has yet to be proved, this Association would welcome the appointment of an Advisory Board on the lines laid down in paragraph 14 of the report.

I have, etc.
TOM VILLIERS,
Chairman.

Public.
J. & P. 2732/19.
Sir,

(ii)

19th June 1919.

I am directed by the Secretary of State for India to acknowledge the receipt of Colonial Office Memorandum No. 16531, dated 29th April 1919, transmitting a copy of the despatch of 14th February 1919 from the Governor of Ceylon and its enclosures including the Report of the Committee on the Recruitment of Indian Labour for Ceylon.

Mr. Secretary Montagu hopes that the recommendations of the Committee if carried into effect may result in an improvement in certain respects in the condition of the Indian labourers in Ceylon, but will defer expressing a definite opinion pending the receipt of the views of the Governments of India and Madras. I am to inquire whether a second copy of the report may be furnished for transmission to the Government of India.

At this stage Mr. Montagu only wishes to make the following observations:—

(1) He notes that the Indian community was not represented in the personnel of the Committee.

(2) If an Immigration Board is established on the lines recommended by the Committee, it is to be hoped that the immigrants themselves will be represented thereon by members of their own community who are known to be qualified to protect their interests.

(3) It is a point for consideration whether the office of a Protector of Immigrants might not be established.

(4) Another question which the Indian Government may wish to examine is the future agency for the actual recruitment of the labourers on the mainland. Possibly some method of closer official supervision and control by the Government of Madras may be desirable.

(5) It is observed that the Committee make no recommendation regarding the abolition of imprisonment for labour offences which was one of the points raised by the Government of Madras in their letter of 26th April 1917, transmitted to the Colonial Office with Sir T. Holderness's letter No. J. & P. 92/13, dated 12th April 1918.

(6) Another question which it may become desirable to consider is that of providing for the payment of a minimum wage to the labourers.

Mr. Montagu notes that the Governor is taking immediate steps for the inauguration of a Labour Department and for prohibiting by law advances of money to Indian immigrants. The Under Secretary of State, Colonial Office.

I have the honour to be, Sir,
Your obedient servant,
T. W. HOLDERNES.

IV

Letter—from the Hon'ble the Colonial Secretary, Colombo.

To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.

Dated—Colombo, the 15th August 1919.

No.—25060.

[Recruitment of Indian labour for Ceylon.]

With reference to your letter No. 1131 of the 23rd July 1919, I am directed to forward herewith 3 copies each of

- (a) the report of the Committee on recruitment of Indian labour for Ceylon.
- (b) the draft of 'The Immigrant Labourers' Ordinance No. of 1919; and
- (c) a memorandum on the draft Bill.

3

1301, HOME (Miscellaneous), 10th September 1919

The Commission on the subject of the recruitment of Indian labour for Ceylon, which was constituted by the Government of Madras, Home (Miscellaneous) Department, on the 15th August 1919, has the honour to inform you that it has the pleasure to forward herewith 3 copies each of the report of the Commission on the recruitment of Indian labour for Ceylon, the draft of the Immigrant Labourers' Ordinance No. 1301, and a memorandum on the draft Bill.

I have the honour to be, Sir,
Your obedient servant,
T. W. Ramachandra Rao

1301, HOME (Miscellaneous), 10th September 1919

With reference to your letter No. 1301 of the 10th September 1919, I am directed to forward herewith 3 copies each of the report of the Commission on the recruitment of Indian labour for Ceylon, the draft of the Immigrant Labourers' Ordinance No. 1301, and a memorandum on the draft Bill.

(a) the report of the Commission on recruitment of Indian labour for Ceylon,
(b) the draft of "The Immigrant Labourers' Ordinance No. 1301" and
(c) a memorandum on the draft Bill.

2. Three copies of each of these documents have already been forwarded to you with Colonial Secretary's letter of the 15th August 1919.

VI

Letter—from M.R. By. Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to the Government of Madras, Home (Miscellaneous) Department.
To—the Hon'ble the Colonial Secretary, Colombo.
Dated—Ootacamund, the 10th September 1919.
No.—1300.

I am directed to acknowledge with thanks the receipt of the papers forwarded with your letters Nos. 25060 and 27029, dated the 15th and the 23rd August 1919, and to forward herewith for information a copy of the minutes of discussion between the Madras Government and the members of the Ceylon deputation.

Order—No. 1301, Home (Miscellaneous), dated 10th September 1919.

The draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum issued by His Excellency the Governor of Ceylon is printed as an annexure to these proceedings.

2. The report of a Committee appointed by His Excellency the Governor of Ceylon to consider the recruiting of Indian labour for Ceylon and especially the desirability of a greater measure of Government control and supervision is published by the Government of Ceylon. This is on sale at the Government Record Office, Colombo, at Re. 1 a copy.

(True extract)

R. RAMACHANDRA RAO,
Secretary to Government.

To the Officer in charge, Publicity Bureau (with a copy of report).
Revenue (Special) Department (with notes).
Editors' Table.

Order and Annexure only

[Arucan]

4

No. 1301, HOME (Miscellaneous), 10th September 1919

V

Letter—from the Hon'ble the Colonial Secretary, Colombo.
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Colombo, the 23rd August 1919.
No.—27029.

With reference to your letter No. 5273-1 of the 7th August 1919, I am directed to forward herewith 3 further copies each of

(a) the report of the Committee on recruitment of Indian labour for Ceylon,
(b) the draft of "The Immigrant Labourers' Ordinance No. 1301" and
(c) a memorandum on the draft Bill.

2. Three copies of each of these documents have already been forwarded to you with Colonial Secretary's letter of the 15th August 1919.

VI

Letter—from M.R. By. Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to the Government of Madras, Home (Miscellaneous) Department.
To—the Hon'ble the Colonial Secretary, Colombo.
Dated—Ootacamund, the 10th September 1919.
No.—1300.

I am directed to acknowledge with thanks the receipt of the papers forwarded with your letters Nos. 25060 and 27029, dated the 15th and the 23rd August 1919, and to forward herewith for information a copy of the minutes of discussion between the Madras Government and the members of the Ceylon deputation.

Order—No. 1301, Home (Miscellaneous), dated 10th September 1919.

The draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum issued by His Excellency the Governor of Ceylon is printed as an annexure to these proceedings.

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(True extract)

R. RAMACHANDRA RAO,
Secretary to Government.

To the Officer in charge, Publicity Bureau (with a copy of report).
Revenue (Special) Department (with notes).
Editors' Table.

Order and Annexure only

[Arucan]

*DB for approval
16/9/19
19*

HOME (MISCELLANEOUS) DEPARTMENT
G.O. No. 1301, 10th September 1919
Emigration—Ceylon

Publishing the draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum on the draft issued by His Excellency the Governor of Ceylon.

Order—No. 1301, Home (Miscellaneous), dated 10th September 1919.

The draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum issued by His Excellency the Governor of Ceylon is printed as an annexure to these proceedings.

2. The report of a Committee appointed by His Excellency the Governor of Ceylon to consider the recruiting of Indian labour for Ceylon and especially the desirability of a greater measure of Government control and supervision is published by the Government of Ceylon. This is on sale at the Government Record Office, Colombo, at Re. 1 a copy.

(True extract)

R. RAMACHANDRA RAO,
Secretary to Government.

To the Officer in charge, Publicity Bureau (with a copy of report).
Revenue (Special) Department (with notes).
Editors' Table.

[Annexure]

Pun
Please compare carefully
with original & strike off
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17545



1794
please

No. 1301, Home (Miscellaneous), 10th September 1919

Letter from the Hon. the Colonial Secretary, Colombo.
To the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Colombo, the 26th August 1919.
No.—27029.
With reference to your letter No. 5273-1 of the 7th August 1919, I am directed to forward herewith 3 further copies each of:
(a) the report of the Committee on recruitment of Indian labour for Ceylon;
(b) the draft of the Immigrant Labourers Ordinance No. of 1919 and
(c) a memorandum on the draft Bill.
Three copies of each of these documents have already been forwarded to you with the Colonial Secretary's letter of the 13th August 1919.
Yours faithfully,
R. Ramachandra Rao, Secretary to Government.
To the Hon. the Colonial Secretary, Colombo.
Dated—Colombo, the 10th September 1919.
No.—1301.
I am directed to acknowledge with thanks the receipt of the papers forwarded with your letters Nos. 25009 and 27029, dated the 15th and the 26th August 1919, and to forward herewith for information a copy of the minutes of discussion between the Madras Government and the members of the Ceylon delegation.

Compare carefully
with original & strike off
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HOME (MISCELLANEOUS) DEPARTMENT
C.O. No. 1801. 10th September 1919
Immigration - Ceylon

1. The draft of an Ordinance to provide for the well-being and control of immigrant labourers with a memorandum on the draft issued by the Government of Ceylon.

2. The report of a Committee appointed by His Excellency the Governor of Ceylon to consider the feasibility of a greater measure of Government control and supervision is published by the Government of Ceylon. This is on sale at the Government Record Office, Colombo at No. 1 a copy.

(Time expired)

R. RAGANATHAN M.A.
Secretary to Government

2
ANNEXURE.

Draft of an Ordinance to provide for the well-being and control of Immigrant Labourers.

WHEREAS it is expedient to make special provision for the well-being and control of immigrant labourers: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as "The Immigrant Labourers Ordinance, No. of 1919." Short title.
2. In this Ordinance, unless the context otherwise requires—

"Immigrant labourer" means any labourer or kangany (commonly known as an Indian cooly) or any Muhammadan (commonly known as a Tulican) who is at the commencement of this Ordinance in the Colony, or who is introduced into or arrives in the Colony after the commencement of this Ordinance, and, in any of such cases, is employed, or is intended to be employed, or subsequently seeks employment, in any of the following kinds of labour, namely:

- (a) Agriculture, including the treatment of produce and its portage to the place of treatment;
(b) The making and upkeep of roads;
(c) Railway construction, maintenance, and working;
(d) The construction, maintenance, and working of all works of a public nature;
(e) Mining and works on mines;
(f) Quarrying and stone breaking;
(g) Brick-making;
(h) The treatment in factories of tea, paddy, rubber, coconuts, cocoa, and other agricultural produce; or

(i) Any other kind of labour declared under this Ordinance to be subject to the provisions thereof.

Provided always that persons employed—

- (i) exclusively in administrative or clerical work;
(ii) in gardens attached to private residences; or
(iii) any other kind of labour declared under this Ordinance not to be subject to the provisions thereof

shall not be deemed to be immigrant labourers under this Ordinance.

"Labour" includes any of the kinds of labour specified or declared as above provided.

"Introduce," "introduced," with reference to the immigration into the Colony of an immigrant labourer, means the bringing in of such labourer with a view to his being employed in labour in the Colony.

"Employer" means any person who employs any immigrant labourer, and includes the agent, superintendent, or manager of any such person, and in the case of any department of the Government or local authority employing any immigrant labourer, the head of such department, or the chairman of such authority, respectively.

"Controller" means the Controller of Labour appointed under this Ordinance.

"Prescribed" means prescribed by regulation under this Ordinance.

Department of Immigrant Labour.

3. It shall be lawful for the Governor to appoint some fit and proper person to be Controller of Immigrant Labour.

4. The Controller shall be head of the Department of Immigrant Labour, and shall be entrusted with the duty of carrying out the provisions of this or any other Ordinance relating to immigrant labourers, and the measures adopted for the encouragement of the introduction of immigrant labourers into the Colony.

5. The Controller shall, not later than the thirty-first day of March in each year, present a Annual report report to the Governor dealing generally with the carrying out of the provisions of this Ordinance, by Controller. and dealing specially with such matters as he may consider to be worthy of special attention, or as he may be directed to report upon by the general or specific instructions of the Governor.

6. The Governor may appoint such and so many fit and proper persons to be medical officers, Inspectors inspectors, assistant inspectors, clerks, and other officers, and peons as may be necessary for the carrying out of the provisions of this Ordinance. Officers of department in India.

7. The Controller may, with the consent of the Governor, station in India such and so many officers of the department as may be necessary to carry on and to supervise the work of recruiting immigrant labourers, of the care of such labourers, and of seeing to their transport to the Colony, free, in all cases, of charge to such labourers.

8. (1) The Controller or any Inspector or Assistant Inspector may at any time, with or Inspection. without notice, enter upon any premises on which immigrant labourers may be employed and inspect the condition—

- (a) of such labourers;
- (b) of their housing accommodation; and
- (c) of the means provided for the medical treatment of such labourers.

(2) Any officer from time to time deputed, with the concurrence of the Governor of Ceylon, by the Government of Madras to examine and report to that Government upon the condition of immigrant labour in Ceylon may exercise all or any of the powers of entry and inspection which are conferred on the Controller or any inspector or assistant inspector by this Ordinance.

(3) Any person refusing to allow the Controller or any such inspector or assistant inspector or any such officer as aforesaid to enter or inspect as aforesaid, or hindering, molesting, or obstructing the Controller or any such inspector or assistant inspector or any such officer as aforesaid in or about any such entry or inspection shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

9. (1) The Governor may appoint any number of persons not exceeding twelve to be Board of Immigration. members of the Board of Immigration.

(2) Each such appointment shall be for a period not exceeding three years.

(3) Any member shall be eligible for re-appointment.

(4) Any member may resign by notice in writing given to the Colonial Secretary.

(5) The Controller shall be *ex-officio* Chairman of the Board.

10. (1) The Board shall meet at such place as may be prescribed at least once in every quarter, and as much oftener as the Controller shall summon it together. Duties of Board.

(2) The duty of the Board shall be to advise the Controller in regard to matters arising under this Ordinance, but the Board shall not exercise any administrative or executive functions.

Finance.

11. (1) For the purposes of this Ordinance there shall be established a fund, to be called Establishment of immigration fund. the Immigration Fund, which shall be administered by the Controller, subject to the control of the Governor.

(2) As soon as may be after the termination of each quarter, a financial statement showing the position of the fund shall be submitted by the Controller to the Board for their information.

12. The fund shall be credited with—

- (a) the surplus balance of the Tin Ticket Fund existing at the time of the commencement of this Ordinance;
- (b) all sums received or recovered under the provisions of this Ordinance from employers in respect of the employment of immigrant labourers; and
- (c) any sum voted by the Legislative Council in aid of immigration.

13. (1) The fund shall be debited, save as is expressly provided under this Ordinance, with Charges on the whole cost of introducing immigrant labourers into this Colony, and with the expenses of the fund. Formation of fund.

department in carrying out the provisions of this Ordinance, and particularly, but without detracting from the general liability imposed by this section, with the cost of—

- (a) the recruitment of immigrant labourers;
- (b) the transportation of such labourers, and their handing over to the employer for whom they have been recruited;
- (c) repatriating such labourers and their dependents;
- (d) any prescribed allowance payable to any employer in respect of each such labourer recruited directly on his behalf by any licensed recruiter.

(2) The fund shall not be debited with the salaries and allowances, if any, of the Controller and other officers of the department, but such salaries and allowances shall be paid out of public revenue.

14. (1) Every employer shall pay such fees as may be prescribed by the Governor in Executive Council. Fees payable by employers.

(2) The amount of such fees shall be ascertained in the prescribed manner, and payment thereof shall be made at the prescribed times.

(3) Such ascertained amount may be sued for and recovered before a Court of Requests having jurisdiction in the place where such employer resides.

15. Where any fees payable by any employer in respect of any immigrant labourer shall remain unpaid for a period of one month after they shall become due, the employer shall be subject to a penalty at the rate of 10 per cent on the amount of such fees, to be paid and recovered together with such fees. Penalty for non-payment of fees.

Registration of Employers.

16. (1) It shall be the duty of every person employing any immigrant labourers at the time of the passing of this Ordinance, or desirous of becoming an employer of immigrant labourers after the passing of this Ordinance, to apply to the Controller to be registered as an employer, and the Controller shall, subject to the provisions of the next succeeding section, cause the name and address of the applicant and such other particulars set forth in the application as may be prescribed to be entered in a register, to be called the "Register of Employers." Register of employers.

(2) Such application shall contain such particulars as may be prescribed.

(3) The Controller shall from time to time make such corrections in the "Register of Employers" as may be necessary to keep it up to date.

17. (1) The Controller may refuse to register any person as an employer who has not, to the satisfaction of the Controller, made proper provision for the housing accommodation, medical treatment, or employment of immigrant labourers. Refusal by Controller to register.

(2) Any person aggrieved by any decision of the Controller under this section may, within ten days of such decision being communicated to him by a letter directed to his address as shown in his application, appeal to the Governor in Executive Council, whose decision shall be final.

(3) Any such person who at the time of the passing of this Ordinance was employing immigrant labourers may, notwithstanding anything in this Ordinance contained, continue to employ such labourers until such appeal, if any, has been heard, and the decision of the Governor in Executive Council has been given and published in the "Government Gazette."

18. (1) The Controller may give notice to an employer of immigrant labourers to make proper provision for the housing accommodation, medical treatment, or employment of such labourers within a reasonable time to be specified in such notice. Notice to employer to make proper provision for labourers.

(2) If the employer does not comply with the terms of such notice, the Controller may cancel the registration of such employer by a letter directed to his address as shown on the Register of Employers.

(3) Any person aggrieved by any decision of the Controller under this section may, within ten days of such decision being communicated to him by a letter directed to his address as shown in the Register of Employers, appeal to the Governor in Executive Council, whose decision shall be final.

(4) Any such person may, notwithstanding anything in this Ordinance contained, continue to employ such labourers until such appeal, if any, has been heard and the decision of the Governor in Executive Council has been given and published in the "Government Gazette."

Recruiting.

19. (1) The Controller may, in his absolute discretion, from time to time issue licences to fit and proper persons entitling them to act as recruiters, either on behalf of the Controller, or on behalf of an employer to be named in such licence.
- (2) There may be endorsed on the licence such conditions as may be prescribed.
- (3) Such licences may be withdrawn by the Controller at his absolute discretion at any time.

20. (1) Any person who desires to obtain immigrant labourers through recruiters acting on behalf of the Controller may send in to the Controller an application in the prescribed form specifying the number of labourers he requires.

(2) The Controller may in his discretion refuse to accept any such application, or may accept the same subject to such conditions as he may impose.

21. The head of any department of the public service, or the chairman of any local authority, may, with the sanction of the Governor, send in an application under the last preceding section, and such head or chairman, as the case may be, shall be considered for the purposes of this Ordinance as the employer of any immigrant labourers that he may obtain.

Introduction of Labourers into the Colony.

22. (1) No immigrant labourers shall be introduced into the Colony unless they have been recruited by a recruiter licensed under the provisions of this Ordinance, and have been passed by an officer of the Immigration Department.

(2) Such immigrant labourers shall enter the Colony by such port or ports, and no other, as may be prescribed.

(3) Any person acting or attempting to act in contravention of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding six months, or to both.

23. (1) Before any immigrant labourer is landed in the Colony, it shall be the duty of the Controller to enter or cause to be entered upon a register in the prescribed form and kept in the prescribed manner the prescribed particulars with respect to such labourer.

(2) Such register is referred to in this Ordinance as the Register of Immigrant Labourers.

(3) Such register shall from time to time be corrected and brought up to date from the copies of the labour registers, notifications, and returns forwarded to the Controller as provided for in this Ordinance, and from such other sources as are available to the Controller.

24. (1) Immediately upon the entry into territorial waters of any vessel containing immigrant labourers, the Controller shall take such labourers under his care and protection.

(2) Any person who molests or interferes with any such labourer, or induces or attempts to induce any such labourer to withdraw himself from the care or protection of the Controller, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

25. It shall be the duty of the Controller to see that, on their entry into the Colony, provision is made, free of charge to the labourers, for the proper feeding, medical treatment, and accommodation at such places as may be prescribed of all immigrant labourers, and of such dependents as may be permitted by the Controller to accompany them.

Allotment and Distribution of Immigrant Labourers.

26. All immigrant labourers recruited by persons acting on behalf of the Controller shall be allotted amongst employers who have applied for such labourers in the prescribed manner and subject to the prescribed conditions.

27. It shall be the duty of the Controller to make all necessary and proper arrangements, free of charge to the labourer, to hand the immigrant labourer over to the employer to whom he has been allotted, or for whom he has been recruited.

Application to Controller for labourers.

Application by head of department.

Introduction of labourers into the Colony.

Registration of labourers before they are landed.

On entry into Colony.

Controller to take charge of immigrant labourers.

Provision of food, etc., for labourers.

Allotment of immigrant labourers.

Controller to see to distribution of labourers.

28. The provisions of the last preceding section shall apply to such dependents of immigrant labourers accompanying such labourers as to the Controller shall seem meet.

Free transportation, &c., for dependents of labourers.

Contract of Service.

29. (1) It shall be unlawful for any person to have in his employ or to allow to be employed on his behalf any immigrant labourer, unless—

Method of employing labourers. (Section 23 of No. 13 of 1889.)

- (a) such person is registered, and continues to be registered, as an employer under this Ordinance; and
- (b) such immigrant labourer is registered under the provisions of this Ordinance; or
- (c) such immigrant labourer has been handed over to the employer by the Controller;

or
(d) such immigrant labourer has in his possession a discharge ticket as provided for in section 38 of this Ordinance, or a certificate by the Controller as provided for in sections 39 and 40 of this Ordinance.

(2) Nothing in the last preceding sub-section contained shall render it unlawful for an employer to hire the services of any immigrant labourer to any other person who is registered as an employer under this Ordinance, but in any such case such labourer shall be deemed, for the purposes of registration and other matters relating to the formation of the contract of hire and service, to continue in the employment of the person so hiring his services.

(3) Any person who employs or allows to be employed an immigrant labourer in contravention of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine which may extend to one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

30. (1) It shall be the duty of every employer to prepare a complete register (hereinafter called the Labour Register) of all immigrant labourers employed at the commencement of this Ordinance by him in such form as may be prescribed, and to continue to keep such a register in manner in this Ordinance provided.

Employer to keep labour register. (Section 22 of No. 13 of 1889.)

(2) Each such employer shall, within one month of the commencement of this Ordinance, forward to the Controller a copy of such register certified under the hand of the employer to be correct, and any employer who does not comply with the provisions of this sub-section, or who forwards to the Controller a copy of a register which in fact is not correct, shall be guilty of a summary offence, and shall be liable on conviction thereof before the court having jurisdiction in the place where such employer resides to a fine which may extend to five hundred rupees, and to a further fine not exceeding five rupees for every day during which such default continues.

(3) It shall be the duty of every employer who begins to employ immigrant labourers after the commencement of this Ordinance to keep a labour register in the prescribed form.

(4) Every employer shall forthwith enter on the labour register—

- (a) the name of every immigrant labourer who is taken into his employment and the date thereof;
- (b) the dates on which any such labourer—
 - (i) is discharged from his employment; or
 - (ii) goes on leave outside the Island with the permission of his employer; or
 - (iii) returns, on the termination of any leave, to the service of his employer; or
 - (iv) deserts from his employment; or
 - (v) dies while in his employment.

(5) Every employer shall on the prescribed form and at the prescribed times notify the Controller of all the occurrences in the last preceding sub-section mentioned.

(6) Any employer who refuses, neglects, or fails to comply with any of the provisions of the three last preceding sub-sections, or who makes any statement with regard to any of the said occurrences which he knows to be false, shall be guilty of a summary offence, and shall be liable on conviction thereof before the court having jurisdiction in the place where such employer resides to a fine not exceeding five hundred rupees, or to imprisonment of either description for any term not exceeding six months, or to both.

31. (1) Whenever the conditions laid down in section 29 (1) (a), (b), (c) and (d) of this Ordinance have been fulfilled, and the name of an immigrant labourer has been entered in the labour register by the employer, such labourer shall be deemed to have entered into a contract of hire and service for the period of one month with such employer, to be renewable from month to month. Contract of service. (Section 25 of No. 13 of 1889; section 5 of No. 13 of 1889.)

(2) Every such contract shall be taken in law to be so renewed, unless one month's previous notice be given by either party to the other of his intention to determine the same at the expiry of one month from the day of giving such notice.

(3) Notice of the intention of an immigrant labourer to determine his contract of service shall not be effectual in law, unless such labourer informs his employer of his desire to determine his contract of service in the prescribed manner. (Section 20 of No. 13 of 1889.)

32. No contract of hire and service under this Ordinance shall be valid, unless it is created in accordance with the provisions of this Ordinance. Contract of hire and service invalid, except in accordance with the provisions of this Ordinance.

33. Nothing in this Ordinance contained shall take away or diminish the rights of an immigrant labourer as against any person in whose service he may have been, although such person in so employing such labourer may have acted in contravention of the provisions of this Ordinance, and every such labourer shall continue to possess all such rights as he would have had against any such person if his contract of service had not been within the provisions of this Ordinance. Rights of labourer under invalid contract of hire.

34. (1) It shall be the duty of every employer to provide every immigrant labourer who enters his employment with the means of subsistence in the prescribed manner, to the prescribed extent, and at the prescribed rates during the period between the commencement of such employment and the first payment of wages to such labourer. Subsistence of immigrant labourers on entry into service.

(2) The employer may deduct from such first payment the cost of such means of subsistence.

(3) If any employer refuses or neglects to carry out the provisions of this section, the Controller may forthwith cancel the registration of such employer.

35. No child of the age of ten years or under shall be employed as a labourer. Employment of persons under ten.

36. Except as in this Ordinance otherwise expressly provided, all the provisions, regulations, pains, penalties, forfeitures, and abatements enacted in Ordinance No. 11 of 1865, so far as they are applicable to monthly servants or their employers, shall extend, and be construed, deemed, and adjudged to extend, to immigrant labourers and employers under this Ordinance; and every act or default, by whomsoever done or committed, which is made punishable by the said Ordinance, if made or committed in respect of, or in relation to, monthly servants or their employers, shall in the like manner be punishable if done or committed in respect of, or in relation to, immigrant labourers and employers under this Ordinance. Certain provisions of Ordinance No. 11 of 1865 extended to labourers and employers and to acts and defaults of third parties in respect of or in relation to them. (Section 4 of No. 13 of 1889.)

37. No criminal proceedings shall be instituted against any immigrant labourer for any offence under section 11 of Ordinance No. 11 of 1865, after six months shall have elapsed from the date when such offence is alleged to have been committed. Limitation of prosecution or punishment of labourers for certain offences. (Section 4-A of No. 13 of 1889.)

38. (1) Whenever any immigrant labourer quits the service of any employer, having given the notice required by law, it shall be the duty of the employer to prepare a discharge ticket in the prescribed form and deliver it to such labourer on the day of the termination of his service. Discharge tickets. (Section 24 of No. 13 of 1889.)

(2) If the labourer entered the service of the employer on a discharge ticket, the employer shall file such discharge ticket in his office, and shall prepare a new discharge ticket and deliver it to such immigrant labourer.

(3) Any employer who acts in contravention of the provisions of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, and a further fine not exceeding five rupees for every day during which such default shall continue.

38. The provisions of the last preceding section shall apply to such dependents of immigrant labourers accompanying such labourers as to the Controller shall seem meet.

Contract of Service.

39. (1) It shall be unlawful for any person to have in his employ or to allow or to be employed on his behalf any immigrant labourer, unless—

(a) such person is registered, and continues to be registered as an employer under this Ordinance; and

(b) such immigrant labourer is registered under the provisions of this Ordinance; or

(c) such immigrant labourer has been handed over to the employer by the Controller;

(2) Every immigrant labourer who in his possession a discharge ticket as provided for in section 38 of this Ordinance, or a certificate by the Controller as provided for in sections 38 and 39 of this Ordinance.

(3) Nothing in the last preceding section contained shall render it unlawful for an employer to hire the services of any immigrant labourer to any other person who is registered as an employer under this Ordinance, but in any such case such labourer shall be deemed, for the purpose of registration and other matters relating to the registration of the contract of hire and service, to continue in the employment of the person so hiring his services.

(4) Any person who employs or allows to be employed an immigrant labourer in contravention of the provisions of this section shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding five rupees, or to imprisonment for a term not exceeding six months, or to both.

40. (1) It shall be the duty of every employer to prepare a complete register (hereinafter called the labour register) of all immigrant labourers employed at the commencement of this Ordinance, and to continue to keep such a register in accordance with the provisions of this Ordinance.

(2) Such register shall, within one month of the commencement of this Ordinance, be forwarded to the Controller a copy of each register certified under the hand of the employer to be correct, and such employer who does not comply with the provisions of this section, or who forwards to the Controller a copy of a register which in fact is not correct, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding five rupees, or to imprisonment for a term not exceeding five months, or to both.

(3) It shall be the duty of every employer who begins to employ immigrant labourers after the commencement of this Ordinance to keep a register in the prescribed form.

(4) Every employer shall forthwith enter on the labour register—

(a) the name of every immigrant labourer who is taken into his employment; and the date on which any such labourer—

(i) is discharged from his employment; or

(ii) goes on leave, or falls the labour with the permission of his employer; or

(iii) returns on the termination of any leave, to the service of his employer; or

(iv) ceases to be employed; or

(v) dies while in his employment.

(5) Every employer shall on the prescribed form and at the prescribed times notify the Controller of all the occurrences in the last preceding section mentioned.

(6) Any employer who refuses, neglects, or fails to comply with any of the provisions of the last preceding section, or who makes any statement which is found to be untrue, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, and a further fine not exceeding five rupees for every day during which such default shall continue.

39. (1) On the application of any immigrant labourer, the Controller, if he is satisfied that such labourer quitted the service of his last employer for reasonable cause, or that he has not previously been employed in labour in the Colony, shall issue to such labourer a certificate to such effect in the prescribed form.

Discharge certificates issued by the Controller.

(2) The Controller may, in his discretion, also issue a similar certificate to any immigrant labourer applying for the same.

40. The Controller, if he is satisfied that any discharge ticket has been lost or destroyed, may, on the application of the labourer to whom the discharge ticket refers, and on payment to him by the applicant of a fee of fifty cents for each discharge ticket, issue to the applicant a certificate that such discharge ticket has been lost or destroyed.

Power of Controller to issue new discharge tickets.

41. Any employer neglecting or refusing to give the Controller all such information as he may require for the purpose of satisfying himself as in the two last preceding sections provided shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five hundred rupees.

Penalty on employers refusing information.

42. Any person who—

- (a) knowingly prepares or issues a discharge ticket which is false in any material particular; or
 - (b) fraudulently makes use of a genuine discharge ticket; or
 - (c) not being an employer issues a discharge ticket in respect of any immigrant labourer; or
 - (d) knowingly makes any false entry, alteration in, or addition to, any register required to be kept by this Ordinance;
- shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

Offences in relation to discharge tickets and labour registers. (Section 28 of No. 13 of 1889.)

Wages.

43. (1) The employer shall pay to each immigrant labourer wages at the agreed rate.

Rate of wages.

(2) When wages are payable at a daily rate, the monthly wages shall be computed according to the number of days on which the labourer was able and willing to work and actually demanded employment, whether the employer was or was not able to provide him with work. Provided that an employer shall not be bound to provide for any labourer more than six days' work in the week.

44. (1) It shall be the duty of every employer to pay the wages of the immigrant labourers in his employment within fifteen days from the expiration of the month during which the wages have been earned. Provided always that—

Payment of wages.

(a) Such first-mentioned period may, at the request of the labourer and with the consent of the Controller, be extended to two months;

(b) Notwithstanding anything in this Ordinance contained, any sum not exceeding the amount due to the labourer in respect of current wages may be paid to him by an employer, and may be deducted from his wages at the time of the next payment thereof.

(2) When the contract of service is determined by one month's previous notice by the labourer to the employer or by the employer to the labourer, all wages due to the labourer for his period of service shall be paid in full to him by the employer on the day when such contract comes to an end.

(3) The wages of a labourer shall not be deemed to have been duly paid as required by this section, unless the full amount thereof has been paid into the hands of the labourer himself, subject only to such deductions as are authorized under this Ordinance.

(4) Where, owing to the absence of any labourer or to any other unavoidable cause, it has not been possible to pay him his wages within the time limited by this section, the employer shall forthwith notify in writing to the Controller the fact of such non-payment, and the sum due. The employer may retain the sum due to such labourer, and shall thereafter pay it to him at the earliest possible opportunity.

39. (1) On the application of any immigrant labourer, the Controller, if he is satisfied that such labourer is entitled to the service of his last employer for reasonable cause, or that he has not previously been employed in the Colony, shall issue to such labourer a certificate in the prescribed form.

(2) The Controller may, in his discretion, also issue a similar certificate to any immigrant labourer applying for the same.

40. The Controller, if he is satisfied, that any discharge ticket has been lost or destroyed, may on the application of the labourer to whom the discharge ticket refers, and on payment to him by the applicant of a fee of fifty cents for each discharge ticket issued to the applicant, issue to him a new discharge ticket, provided that such discharge ticket has been lost or destroyed.

41. Any employer neglecting or refusing to give the Controller all such information as he may require for the purpose of satisfying himself as to the facts and circumstances provided for in the Ordinance, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five hundred rupees.

42. Any person who—

(a) knowingly prepares or issues a discharge ticket which is false in any material particular; or

(b) fraudulently makes use of a genuine discharge ticket; or

(c) not being an employer, issues a discharge ticket in respect of any immigrant labourer; or

(d) knowingly makes any false entry, alteration in, or addition to, any register required to be kept by this Ordinance;

shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment for a term not exceeding six months, or to both.

43. (1) The employer shall pay to each immigrant labourer wages at the agreed rate.

(2) When wages are payable at a daily rate, the monthly wages shall be computed according to the number of days on which the labourer was actually working and actually employed, whether the employer was or was not able to provide him with work.

(3) Provided that an employer shall not be bound to provide for any labourer more than six days' work in the week.

44. (1) It shall be the duty of every employer to pay the wages of the immigrant labourers employed by him within fifteen days from the expiration of the month during which the wages have been earned. Provided always that—

(a) Such first-mentioned period may, at the request of the labourer and with the consent of the Controller, be extended to two months;

(b) Notwithstanding anything in this Ordinance contained, any sum not exceeding the amount due to the labourer in respect of current wages may be paid to him by an employer, and may be deducted from his wages at the time of the next payment thereof.

(2) When the contract of service is determined by one month's previous notice by the labourer to the employer, or by the employer to the labourer, all wages due to the labourer for his period of service shall be paid in full to him by the employer on the day when such contract comes to an end.

(3) The wages of a labourer shall not be deemed to have been paid as required by this Ordinance, unless the full amount thereof has been paid into the hands of the labourer himself, and only to such deductions as are authorized under this Ordinance.

(4) Where, owing to the absence of any labourer or to any other unavoidable cause, it has not been possible to pay him his wages within the time limited by this section, the employer shall, in writing, notify to the Controller the facts of such non-payment, and the sum due to the labourer, and shall, when the sum due to such labourer, and shall thereupon pay it to him at the earliest possible opportunity.

(5) Any employer who fails to pay the wages of any labourer, or to notify the Controller as hereinbefore in this section provided, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine which may extend to one hundred rupees on a first conviction, and to five hundred rupees on a second or subsequent conviction.

45. No immigrant labourer shall be liable to punishment for neglecting or refusing to work, or for quitting service without leave or reasonable cause, or for disobedience, or for neglect of duty, if at the time of such alleged offence the monthly wages earned by him shall not have been paid as required by section 44 of this Ordinance, or if the employer refuses or neglects to carry out the provisions of section 34 thereof.

46. Immigrant labourers employed on an estate shall, anything in the Ordinance No. 22 of 1871 to the contrary notwithstanding, have in respect of their wages, whatever the period for which such wages may be due, but not exceeding the sum of twenty rupees earned by each labourer, a first charge upon such estate, and such first charge shall have priority over all claims for rents, dues, or otherwise by any lessors, mortgagees, judgment, execution, or other creditors, or by any other persons whatever; and such first charge may be enforced by suit or by claim if instituted or preferred within three months of the last day of the period in respect of which such wages are claimed.

47. The wages due to any immigrant labourer or labourers, whatever may be the amount claimed, shall be sued for in a Court of Requests having in other respects jurisdiction in that behalf; and it shall be lawful for one or more immigrant labourers employed on such estate to institute one suit to recover the wages which may be due, not only to him or them, but also to any other immigrant labourer or labourers employed on the same estate whose name or names may appear in the plaint, provided that the court in which the suit is instituted is satisfied, after due inquiry, that the labourer or labourers suing is or are authorized to sue for and on behalf of the other or others so named as aforesaid.

48. In any suit instituted under this Ordinance against the proprietor of an estate, it shall be sufficient to designate the defendant as the "Proprietor of the — Estate," specifying the name of the estate on which the labourer had been employed, without naming the proprietor or proprietors thereof.

49. It shall be lawful for a mortgagee of an estate to pay and discharge the first charge created by this Ordinance in respect of such estate in favour of the labourers employed thereon; 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.

50. (1) When the proprietor of an estate is sued under this Ordinance, and he shall by proof adduced satisfy the court that he did not by himself or by his agent or agents employ all or any of the labourers who are suing him, but that they or any of them were employed on such estate by some other person as trustee, lessee, or mortgagee in possession, he shall be entitled, upon application by him made for that purpose, to have such other person made a party defendant in the same suit at any time before execution is levied, provided that such other person shall have had reasonable notice of such application, and shall have failed to show cause why he should not be joined in the suit.

(2) The court shall, if satisfied that such other person was primarily liable to pay the amount of wages sued for wholly or in part, and that the same has since the institution of the suit been paid and satisfied by such proprietor, enter a separate judgment therefor as between the proprietor and such other person, with such reasonable costs as it may think fit, and enforce such judgment against such other person by a writ of execution.

(3) No proceedings had as between such other person and such proprietor as aforesaid shall be permitted in any way to delay the progress of the suit as between the labourers and such proprietor.

Exemption from punishment when wages are overdue.

Wages made a first charge on estate.

Wages may be sued for in Court of Requests whatever the amount.

Proprietor of estate to be party defendant.

Right of mortgagee. (Section 13 of No. 13 of 1889.)

Proprietor may obtain judgment in same suit against others who have actually employed the labourers. (Section 14 of No. 13 of 1889.)

51. The rules and orders in the schedule hereto shall apply to suits instituted under this Procedure. Ordinance; and upon any matter not specially provided therein, including the payment of costs, the general rules and orders for Courts of Requests shall be followed in so far as the same may be applicable. (Section 15 of No. 13 of 1889.)

Returns.

52. (1) Every employer shall on the tenth day of January, on the tenth day of April, on the tenth day of July, and on the tenth day of October of each year make to the Controller true and correct returns of the immigrant labourers in his employment, for and in respect of the three months next immediately preceding each of the said four months, containing each and every of the particulars set forth in the prescribed form. Employers to send returns to the Controller.

(2) The returns shall be made in the English language, and copies of such form shall be furnished by the Controller on the application of any employer free of charge.

(3) Any employer who shall refuse or neglect to make any such returns in the form and on the days herein specified shall be guilty of an offence, and shall be liable on conviction thereof before the court having jurisdiction where the person charged is to a fine not exceeding one hundred rupees; and the production of a certificate under the hand of the Controller to the effect that no returns have been received by him from the person charged shall in all judicial proceedings be *prima facie* evidence of such person having refused or neglected to make such returns, as the case may be.

53. (1) The Controller shall forward all such returns to the Colonial Secretary, who shall, so soon as convenient, publish, or cause to be published, in the "Government Gazette," a general abstract of the returns received for any one quarter in such form as may be prescribed. Returns to be sent to Colonial Secretary.

(2) An annual general abstract of all such returns for each year shall be laid before the Legislative Council.

Repatriation.

54. (1) Every immigrant labourer shall, subject to such conditions as may be prescribed, be entitled to be provided with free transportation to his place of abode, and to be furnished with food, free of charge, during the period of such transportation. Repatriation.

(2) The wife, and every son and daughter, and any other person dependent on an immigrant labourer shall, if such wife, son, daughter, or dependent accompanies him, be also, subject to such conditions as may be prescribed, entitled to be provided with free transportation and food as aforesaid.

Dwellings and Medical Treatment.

55. Except as may be prescribed, every employer shall provide suitable housing accommodation for immigrant labourers in his employ. Suitable dwellings for labourers.

56. Every employer shall make proper provision for the medical treatment of immigrant labourers in his employ, whether by the provision of hospital accommodation, medical attendants, medicines, or otherwise as may be necessary for securing the health of such labourers. Medical treatment generally.

57. It shall be the duty of the Controller to make provision for the periodical inspection of such housing accommodation and of the provision made for medical treatment, and to make an annual report to the Governor on this subject. Periodic inspection and report on dwellings.

58. Every employer shall make reasonable provision for the medical treatment, subsistence, and lodging of every female immigrant labourer giving birth to a child, and take care that she be not required to work for one month after the birth of such child, except on the report of a district medical officer. Special provision for women after childbirth.

59. (1) Any person who—
(a) issues or causes or permits to be issued a *tundu*; or
(b) accepts or agrees to accept any *tundu* or any obligation arising thereunder or intended to be imposed thereby; or
(c) gives or enters into any undertaking, express or implied, with regard to any *tundu*; to or in respect of any kangany, gang of immigrant labourers, or immigrant labourers, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding twenty thousand rupees, or to imprisonment of either description for any period not exceeding two years, or to both. Penalties for issuing, etc., *tundu*.

(2) For the purposes of this section the expression "*tundu*" means the document commonly called a *tundu*, and in use at the time of the commencement of this Ordinance, under the provisions of Ordinance No. 13 of 1889; it also includes any document, whatever its form may be, whereby the objects attained by a *tundu* at the time of the commencement of this Ordinance are sought to be attained after such commencement.

General.

60. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Controller to grant a certificate in the prescribed form declaring that the person therein named is not an immigrant labourer, and thereupon such person shall not be subject to the provisions of this Ordinance.

61. No immigrant labourer shall be liable to arrest under the provisions of "The Civil Procedure Code, 1889," in execution of a decree for money.

62. No person shall induce or attempt to induce any immigrant labourer to leave the employment of his employer by offering any inducement of any kind whatsoever, other than the payment of higher wages, to such labourer; and any person acting in contravention of this section shall be guilty of an offence, and shall be liable to a fine of one thousand rupees, or to imprisonment of either description for any period not exceeding two years, or to both.

63. The Controller may, in any proceeding, civil or criminal, in which an immigrant labourer can take action under this Ordinance in his own name, take such action on behalf of such immigrant.

64. Every person of Indian descent engaged in labour shall *prima facie* be deemed to be an immigrant labourer.

65. (1) The registers kept by the Controller under this Ordinance and any extract from any such register purporting to be certified under the hand of the Controller shall be *prima facie* evidence of the facts therein stated.

(2) A certificate purporting to be certified under the hand of the Controller to the effect that the name of a particular person is not entered in any such register shall be *prima facie* evidence of the fact.

66. The Governor in Executive Council may, by Proclamation in the "Government Gazette," direct that such kinds of labour as are therein specified shall be deemed to be included in the definition of labour, or not to be included in such definition, as the case may be, for the purposes of this Ordinance.

67. (1) The Governor in Executive Council may make regulations for the purpose of carrying out the provisions of this Ordinance.

(2) All such regulations shall be published in the "Government Gazette," and on such publication shall have the same force and effect as if they were contained in, and formed part of, this Ordinance.

68. Ordinances No. 13 of 1889, No. 7 of 1890, and No. 9 of 1909 are hereby repealed.

SCHEDULE.

Rules and Orders.

1. The suit shall commence by the filing of a plaint setting out the period or proximate period for which wages are due to the plaintiff, or to each of the plaintiffs if there be more than one 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 or plaintiffs, and shall at the same time issue a subpoena to the superintendent of the estate requiring him on 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.

2. The summons directed to the defendant shall be served upon the superintendent, or, if the Commissioner so directs, 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 in every case the chief clerk shall post a copy of such summons to the superintendent directed to such estate. It shall be competent for such superintendent to appear for and represent the defendant in the said suit, and to adduce evidence therein.

Certificate of exemption.

Immunity of labourers from arrest in civil process.

No employer to offer inducements to labourers to leave service.

Controller may take action on behalf of labourer.

Burden of proof.

Registers kept by Controller to be evidence.

Restriction of definition of labour.

Regulations.

Repeal.

Commencement of suit by filing plaint.

Issue of summons to defendant and subpoena to superintendent.

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 Investigation, may adjourn or postpone the inquiry, he shall summarily hear and determine the suit and give judgment thereon for such sum or sums as the plaintiff or plaintiffs may be found entitled to; and in determining the sum due to the plaintiff, or if there be more than one plaintiff, the sum due to each of the plaintiffs, the Commissioner shall make any deduction authorized to be made by an employer under this Ordinance, and the Commissioner shall in his judgment specify the extent to which the first charge shall apply, and shall declare the estate bound and executable for and in respect of such first charge.

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 first charge, he may, in the first instance, order accordingly.

4. As soon as may be after the judgment is pronounced a formal decree bearing the same date as the judgment shall be drawn by the Commissioner in the form hereto annexed, specifying (1) the total amount due to the plaintiffs and (2) the amount for which the estate is bound and executable for and in respect of the first charge.

5. The Commissioner on non-payment of the amount of the first charge shall issue a writ in the Form I hereunto annexed, and on non-payment of the balance (if any) due under the decree shall issue a writ in the Form II hereunto annexed, which writs may issue simultaneously or independently of each other.

6. The judgment in the suit shall not be declared satisfied or discharged save by payment into court of the total amount decreed, or by deposit in court of such amount by levy in execution; and when such judgment shall be satisfied by payment into court, or when payment shall be made of the first charge, the Commissioner shall issue a certificate to that effect under his hand to the person making such payment.

7. 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 free from all encumbrances.

8. Upon the payment into or deposit in court of the amount decreed or levied, the Commissioner shall pay or distribute the same to or among the plaintiff or plaintiffs adjudged to be entitled thereto, and make a record thereof.

9. 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.

Notice.

Notice is hereby given that a suit has been instituted in the Court of Requests of —, by Notice, — (insert number) immigrant labourers of — estate, against the proprietor or proprietors thereof, under the Ordinance No. — of 1919, for the recovery of their wages, amounting to Rs. —.

This — day of —, 19—.

Chief Clerk.

Form of Decree.

It is ordered and decreed that the proprietor of the — estate do forthwith pay into court for the use of the plaintiffs the sum of Rs. —, and that the said — estate (or, if a portion only of the estate is declared bound and executable, here describe definitely the said portion of the estate), bounded or reputed to be bounded on the north by —, east by —, south by —, and west by —, containing in extent — acres, is bound and executable to the plaintiffs for a first charge to the extent of Rs. —.

It is further ordered and decreed that the proprietor of the said estate do pay to the plaintiff the costs of this action.

Form of Writ I.

In the Court of Requests of —.

—, Plaintiff.

Vs.

Proprietor of — Estate, Defendant.

To the Fiscal of the — Province.

Whereas by a judgment 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 pay into court in the said suit the sum of Rs. —, and the said — estate (hereinafter described) was thereby declared bound and executable for a first charge to the amount of Rs. —; and whereas the proprietor of the said — estate hath made default in paying the said amount:

Writ of execution against estate for first charge.

Levy and make of the said estate, bounded or reputed to be bounded on the north by —, east by —, south by —, and west by —, containing in extent — acres, declared by the judgment of this court bearing date the — day of —, bound and executable for a first charge to the extent of Rs. —, by seizure, and, if necessary, by sale thereof (or part thereof, to be defined), the sum of Rs. —, and have that money before this court on the — day of —, to render to the said —, and inform this court for what sum or sums, and to what person or persons, you have sold the said estate (or part thereof), and have you there this mandate.

By order of court,

Chief Clerk.

Form of Writ II.
In the Court of Requests of —.
—, Plaintiff.
Vs.
Proprietor of — Estate, Defendant.
To the Fiscal of the — Province.

Whereas by a judgment 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 pay into court the sum of Rs. —, of which sum the sum of Rs. — was declared a first charge on the — estate, and the balance sum of Rs. — has not been paid into court:

Levy and make of the houses, lands, goods, and credits of the proprietor of the said — estate by seizure, and, if necessary, by sale thereof the sum of Rs. —, and have the money before this court on the — day of —, to render to the said —, and inform this court for what sum or sums, and to what person or persons, you have sold the said property respectively, and have you there this mandate.

By order of court,

Chief Clerk.

Form of Conveyance by Fiscal.

Whereas by a judgment 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 pay into court, in the said suit, the sum of Rs. —, and the said estate (hereinafter described) was there- by declared bound and executable for a first charge to the amount of Rs. —; And whereas the proprietor of the — estate hath made default in paying 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 Rs. — 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 its and every of its appurtenance, by him the said —, his heirs, executors, administrators, and assigns, for ever, free from all incumbrances.

In witness whereof the said Fiscal hath hereunto inscribed his name at —, this — day of —, in the year of our Lord One thousand Nine hundred and —.

Signature of Fiscal.

Witnesses.

14
Memorandum on the Draft of "The Immigrant Labourers Ordinance,
No. of 1919."

This Bill puts forward proposals for consolidating and amending the law relating to immigrant labourers, and it may be of advantage if its main provisions are grouped together and explained.

Scope of Bill.

Ordinance No. 13 of 1889 deals only with Indian labourers and Tulicans who are employed upon estates, but it is proposed under this Bill that all such persons who are engaged, not only on estates, but in the several kinds of work specified in section 2 of the Bill, should be brought within its purview.

Department of Immigrant Labour.

The number of immigrant labourers, their descendants, and dependents are said to amount to something like 750,000 persons; and that fact, coupled with the other and still more important fact, that the future of agriculture in the Colony depends on a steady immigration of such labourers, makes it essential that proper control should be exercised.

It is therefore proposed to establish a Department of Labour, with a Controller at its head (sections 3 and 4 of Bill). This official is to be its administrative head, and he and his subordinate officers are to see to the carrying out of the provisions of the Ordinance (sections 4 to 8 of Bills). In this connexion section 63, which allows of the Controller taking legal action on behalf of an immigrant labourer, may also be usefully considered. But, with a view to assisting the Controller in the performance of his duties, the Governor is to appoint a Board of not more than twelve persons to act in an advisory capacity (sections 9 and 10 of Bill).

Finance.

The Bill proposes the establishment of a fund, which is to be administered by the Controller, subject to the control of the Governor. It is to be derived from the sources specified in sections 12, 14 and 15 of the Bill, and is to meet all the expense of carrying out the provisions of the Bill other than the salaries and allowances of officers (section 13 (2) of Bill). It is thought that the general public interest is so bound up in the solution of the labour problem that it is but right to make these salaries and allowances payable out of public revenue.

Registration of Employers.

Proper control of the conditions of labour cannot be secured unless the persons who employ immigrant labourers can be readily ascertained; and provision is therefore made that all employers must be registered, and their names entered by the Controller in the Register of Employers (section 16 of Bill). Registration is not, however, to be automatic. The Controller may refuse to register any person who has not made proper provision for the housing accommodation, medical treatment, or employment of his labourers; and he is authorized to cancel a registration, if an employer fails to keep up to the required standard in these respects (sections 17 and 18 of Bill). As the refusal or cancellation of registration makes it unlawful for any person to employ an immigrant labourer (section 29 of the Bill), and may involve serious injury to an employer, provision is made in those sections for an appeal to the Governor in Executive Council.

Recruiting.

The existing method of obtaining labourers is well known. Each individual employer sends an agent to India to recruit labourers for him, and the Government has no control whatever over either the employer or his agent. But by section 19 of the Bill provision is made for the licensing of recruiters and for the withdrawal of their licences; and under section 22 only labourers recruited by a duly licensed recruiter can be introduced into the Colony.

After careful consideration a further change is proposed to be made in the existing method of recruiting. For not only may the employer send out licensed recruiters, but under section 19 the Controller may commission recruiters to obtain labourers on his behalf with a view to their allotment amongst applying employers and heads of departments (sections 20 and 21 of Bill).

Introduction of Labourers into Colony.

Labourers can only be introduced into the Colony through prescribed ports (section 22 (2) of Bill); it is obvious that such a provision is essential if the Controller is to exercise the necessary supervision. Further, before any labourer enters the Colony, his name is to be registered in the Register of Immigrant Labourers (section 23 of Bill); and immediately upon his entry into territorial waters, the Controller is charged with the duty of taking him under his care and protection (section 24 of Bill); and of providing such labourer and any dependents permitted to accompany him with food, medical treatment, and accommodation, free of charge (section 25 of Bill).

The subject of the indebtedness of the labourer will be dealt with more fully in a later part of this Memorandum; but attention may be called to this particular provision, and also to that contained in section 13 (1) (d) and section 27, as showing the clear intention of the Bill to take the labourer to his employment and place him there free of debt.

Allotment and Distribution.

The care of, and control over, the labourer to be exercised by the Controller does not stop at the port of entry; for under sections 27 and 28 of the Bill that officer is to make all necessary and proper arrangements, free of charge to the labourer, to hand him and his dependents, if any, over to his employer.

Contract of Service.

If the necessary care and protection are to be afforded to the immigrant labourer, it is essential that power should be taken to control the contract of service entered into by him with his employer. With this object careful provision is made for the registration of all labourers by the employer, and for copies of all Labour Registers being sent to the Controller (section 30 of Bill); and in section 29 the conditions precedent to the right to enter into a contract of service are laid down. Generally it may be said that these conditions require that the employer should be registered and that either the labourer should be registered (as will be the case where a labourer is in service at the commencement of the Ordinance), or that he should have been handed over by the Controller to the employer, or have a discharge ticket under section 38 of the Bill, or a certificate from the Controller under sections 39 and 40.

Under section 26 of Ordinance No. 13 of 1889 a Police Magistrate was empowered to issue a certificate if satisfied that the applicant had not been employed on an estate for the thirty-six months immediately preceding the application, or that he had quitted his employment for reasonable cause. By section 39 of the Bill the right to issue these certificates is given to the Controller, and a much wider discretion is given to him as to their issue.

Provided that the conditions above referred to are fulfilled, and when the name of the labourer has been entered in the Labour Register, a monthly contract of service is then, by section 31 of the Bill, created between the employer and the labourer. This contract is renewed from month to month, but is determinable by one month's notice; and in the case of the labourer, so as to ensure that he really desires to quit his service, provision is made that this notice shall be given in the prescribed manner.

It will also be observed as bearing on the subject of the contract of service that, following the example of section 4 of Ordinance No. 13 of 1889, provision is made in section 36 of the Bill that, except as therein expressly provided, the provisions of that Ordinance are to apply to contracts of service under the Bill.

Wages.

The leading principle as regards wages is stated in section 44 (3) of the Bill. It is there provided that a labourer is not duly paid unless the full amount agreed to be paid to him as wages is in fact paid into his hands, subject only to such deductions as are authorized under the Bill. These deductions are:—

- (a) Any amount advanced to the labourer under section 34 of the Bill for his subsistence at the commencement of his employment; and
- (b) Any sum from time to time paid to him not exceeding the amount due to him in respect of current wages under section 44 (1) (b).

It is obvious that to allow of these deductions are in the best interests of the labourer himself. Under section 34 of the Bill the employer is bound to ration the labourer during the first days of his service, and so the need for the labourer to run into debt for the means of subsistence is obviated; and, therefore, there can be no objection in allowing this deduction, as well as a deduction in respect of advances of wages actually earned but not payable being made.

Wages are to be paid within fifteen days from the expiration of the month during which they are earned, but the former period may be extended to two months with the consent of the Controller (section 44 (1) (a) of Bill); and in the event of the determination of the contract, the employer is to pay the labourer up in full on the day when the contract comes to an end (section 44 (2)). Special provision is also made for the case where, owing to the absence of the labourer or any other unavoidable cause, it has not been possible to pay a labourer within the prescribed times (section 44 (4)).

Ordinance No. 13 of 1889 contained in sections 9 to 15 thereof an easy means of recovering wages due to labourers. These wages were made a first charge on the estate on which they were employed, and were recoverable in a Court of Requests. Sections 47 to 51 of the Bill contain similar provisions, also limited to estates.

The scope of the Bill covers labourers also employed at work other than on estates, but it would be difficult to fix a charge in favour of labourers employed, for instance, in a brick-making business, without hampering the ordinary conduct of such business.

Repatriation.

In section 54 of the Bill provision is made for the repatriation, on conditions, of immigrant labourers and their dependents, free of charge both as regards transportation and food during the journey. The conditions are not set out in the Bill, as it is obvious that, as therein provided, they can be better laid down by means of regulations.

Dwellings and Medical Treatment.

Sections 55 and 56 require the employer to make proper provision for the housing accommodation and medical treatment of his labourers. No punishment is laid down in these sections for failure to perform this duty, as this is unnecessary in view of section 18 of the Bill. The severest, as well as the most effective, way to deal with a defaulting employer is by cancelling his registration and so making it unlawful under section 29 for him to employ any immigrant labourers.

Attention may also be called to section 57 of the Bill, which requires the Controller to take steps for the periodical inspection of the housing accommodation and of the provision for medical treatment and reporting thereon annually to the Governor; and to section 58, which deals with the employment of female immigrants after childbirth.

Indebtedness.

In the course of this Memorandum attention has been called to the provisions of sections 13 (1) (a), 25, 27, 28, 34, and 44 (1) (b) and (3) of the Bill, which, it is hoped, will ensure a labourer being placed at his work free of debt. But these provisions only affect the future immigrant; they would not affect the problem of the immigrants introduced before the passing of the Bill.

It can be argued that it is unwise for the Legislature to interfere with a condition of indebtedness which has been lawfully created under the existing law, and that those who are in debt should be allowed to work out their own salvation; but the fact cannot be overlooked that to have on the same estate the majority of the labourers heavily in debt, while a small but increasing number of labourers come on to the estate free of debt, would probably not make for industrial peace.

Additional reasons for giving serious attention to this problem are that it has been the object of criticism by the Government of India, and that in the concluding paragraph of their Report dated June 5, 1918, the Committee appointed by His Excellency the Governor to consider the question of the recruiting of Indian labour for Ceylon called serious attention to the gravity of the labour situation in this respect.

On the other hand, it is necessary to remember that to deal with the indebtedness of the immigrant labourer must involve the rights of the persons who have advanced the money; and it is only fair that their views should be elicited and taken into serious consideration.

It is for this reason that no specific provisions dealing with the subject of indebtedness are contained in the Bill; but it is felt that this question should be thoroughly and publicly discussed; and, with a view to raising the issues involved in concrete shape, the following provisions are put forward merely with a view to raising such discussion:—

A.—It is hereby enacted that, as from the commencement of this Ordinance, any debt owing by an immigrant labourer to any employer, or, save as hereinafter in this Ordinance excepted, by any such labourer to any kangany, or by any kangany to any employer, and any security held or given in respect of such debt, shall be and the same is hereby declared to be extinguished, and not recoverable by any process of law in any court in this Colony.

B.—(1) Immediately upon the passing of this Ordinance the Governor shall appoint a Commissioner to inquire into the debts owing by immigrant labourers to any kangany and by any kangany to any employer.

(2) The Commissioner may, upon such evidence as he may in his absolute discretion think reliable, fix, by order in writing under his hand, the amount due by any such labourers to the kangany and by any such kangany to the employer.

(3) The amount so found due by any such labourers to any kangany shall be a debt owing by the employer to such kangany, and shall be payable by such employer in such instalments spread over five years as the Commissioner may by his order direct; provided that any debt owing by the kangany to the employer shall be set off against any debt owing to the kangany by the employer under the provisions of this Ordinance, and such order shall be only in respect of the balance, if any, owing by the employer to the kangany.

Existing debts not recoverable from immigrant labourers.

Debts due from immigrant labourers to kanganies and by kanganies to employers.

(4) Any such order may be made an order of the Court of Requests having jurisdiction where the employer resides, and execution may be had thereon as in the case of any order made by such court.

C.—(1) As from the commencement of this Ordinance no transaction based upon credit given to any immigrant labourer while registered under this Ordinance shall, except as in this Ordinance expressly provided, be enforceable by any employer or kangany as against any such labourer. Transactions based on credit not enforceable by employer or kangany against labourer.

(2) The Governor in Executive Council may from time to time, by Proclamation in the Government Gazette, exempt any particular form of transaction from the operation of this section.

It will be observed that clause A provides that, as from its passage into law, the indebtedness of an immigrant labourer to an employer or to a kangany is, so far as the labourer is concerned, utterly wiped out. As it would appear futile to pass such a provision with regard to the past without providing for the future, the incurring of debt by immigrant labourers is prohibited by clause C. The object of clause B is to deal specially with the case of the 'solvent' kangany; for in so far as a kangany's debt to the employer is greater than the amount owing to him by the members of his gang, the effect of clause A would be to wipe out the kangany's indebtedness also.

It is obvious that the position of the solvent kangany is one that cannot, without great difficulties, be left to be litigated in the ordinary manner. A most serious congestion of the work of the courts would arise, and the expense of clearing up the situation would be immense.

Provision is therefore made in clause B for the appointment of a Commissioner to settle all cases in dispute. It is hoped and believed that in a large number of cases employers and their kanganies would be able to come to an amicable settlement as to the amount payable; but where this is not possible, the Commissioner could be appealed to.

The Commissioner would not be bound by the strict rules of evidence, but would be empowered to act on such evidence as he thinks reliable. He is also directed to find out the respective debts of the labourers to the kangany and of the kangany to the employer, and the amount of the debt of the labourers to the kangany is declared to be a liability of the employer to the kangany; but the former may set off any amount due to him by the latter, and the order for payment to be made by the Commissioner would be in respect of this balance only. For purposes of execution it is laid down that any such order of the Commissioner may be made an order of the Court of Requests.

The present condition of indebtedness in the case of the labourer is largely the result of the tundu system, and it is therefore necessary to make provision for its abolition, and to ensure, so far as it is possible, that it should not creep in again either in its present shape or in a modified one. For that purpose section 59 is introduced into the Bill; it is comprehensive in terms and, it is hoped, will be able effectually to deal with any attempt to re-introduce a system which is now generally regarded as a vicious one.

There are other provisions of the Bill to which specific reference has not been made, as they deal with matters of form and procedure, and are readily understood on a perusal of the Bill.

ATTORNEY-GENERAL'S CHAMBERS,
Colombo, 22nd July 1919.

H. C. GOLLAN,
Attorney-General.

8 July

Of for approval, copy
19/9
35

NOTES CONNECTED WITH G.O. Nos. 1300-1301, HOME (MISCELLANEOUS),
 DATED 10TH SEPTEMBER 1919.

[SUBJECT.—*Emigration—Ceylon.*]

From the Government of India, Department of Commerce and Industry, No. 5467, dated
 22nd July 1919.

[Letter No. 5273-1, Home (Miscellaneous), dated 7th August 1919.]

From the India Office, Judicial and Public Department, No. 2732 J. and P./19, dated 1st July 1919.

HOME (MISCELLANEOUS) DEPARTMENT.

Advance copy to the Honourable Member, Revenue (Special).

R. RAMACHANDRA RAO—13-8-19.

As only one copy of the report has been received, it is submitted the case may be circulated
 to His Excellency the Governor in advance for perusal.

S.N.P.—14-8-19.

C. H. BROWN—14-8-19.

R.R.—15-8-19.

This is quite interesting but it would have been well if we could have had it before our
 meeting with the delegates from Ceylon.

W[ILLINGTON]—16-8-19.

Demi-official—from the Hon'ble Mr. L. DAVIDSON, C.S.I., I.C.S., Member of
 Council.

To—the Hon'ble Mr. N. E. MARJORIBANKS, C.I.E., I.C.S., Acting Chief Secretary
 to Government.

Dated—Ootacamund, the 22nd August 1919.

His Excellency told me this morning that he would be grateful if you could find time for a
 brief note on the accompanying article on "Indian Labour in Ceylon" taken from the *Hindu* of
 the 19th August, and also for your advice whether it is expedient now to publish any communiqué
 regarding our conference with the deputation from Ceylon.

It seems a shame to trouble you in this matter on the eve of your departure. My excuse
 must be that you know so much more about it than any one else.

Extract from the "*Hindu*", dated 19th August 1919.

INDIAN LABOUR IN CEYLON.

The part played by the Government of Madras in the negotiations that took place early last
 month in respect of the question of Indian labour in Ceylon has not yet transpired despite
 the public protest made against the secrecy of the transaction. The report of the Committee
 appointed by the Ceylon Government has now been issued and the text of the draft Ordinance
 which it has recommended should be passed is published elsewhere. We are absolutely in the
 dark as to the extent to which the Local Government have approved of the proposals made in the
 report and it is very regrettable that, at a time when His Excellency was publicly expressing
 his desire to establish an agency for interpreting the actions of Government to the people, the
 details of the important question should have been debated upon, and perhaps decided in secret
 conclave. The Ceylon Committee have proposed a few remedial measures of first rate
 importance; but all of them have proceeded from the point of the view of one who is anxious to
 be no more bothered by the difficulty of labour scarcity which would spell ruin to Ceylon
 agriculture. There is little or no thought bestowed on such questions as affect the person of
 the labourers, his freedom to move about and immunity from persecution for trivial offences.
 The main proposals may be thus summarized. The Ceylon Government are to assist immigration

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2 NOTES to G.O. Nos. 1300-1301, HOME (MISCELLANEOUS), 10TH SEPTEMBER 1919
of Indian coolies and are to be responsible for control and supervision of recruitment in India, for their being taken over free to Ceylon, for their distribution in that colony to employers, and for securing proper house accommodation and medical relief to labourers. Labourers and employers are to be registered and recruitment except under licence is to be forbidden. These duties will be discharged on behalf of the Government by an Indian Immigration Board consisting of four officials and five non-officials nominated by the Governor of Ceylon. Labourers are to be taken to Ceylon free and are to begin their work free from debt; the *tundu* system is to be abolished and the existing debts of Indian labourers are to be extinguished within a fixed number of years. The Committee thinks that its recommendations would prevent a recrudescence of indebtedness, while the establishment of a semi-Government department for the registration and inspection of Indian labourers 'will be a new guarantee that their health, interests and general welfare are being properly cared for.' This system of aided emigration, as a matter of fact, is borrowed by the Committee from the system prevailing in the Federated Malay States, but before we come to the efficacy of this expedient, we should express our surprise and indignation that the Committee should have altogether ignored the other abuses prevalent in Ceylon which have grown into a grave and unbearable scandal. There is first the question of imprisonment for labour offences. The report is absolutely silent on this point, though the draft Ordinance explicitly says that the provisions of the old Ordinance authorizing and legalizing these brutal punishments are to be applicable to the labourers under the new Ordinance. In the Federated Malay States, disputes as to wages and complaints of disobedience, negligence, carelessness or other misconduct may be laid before a Magistrate who may levy a fine not exceeding twenty-five dollars, and imprisonment for default of payment of fine may extend to 30 days. The Marjoribanks-Maricair Commission says that the employers in Malay States were nearly all of opinion that there would be practically no objection to the abolition of the penal provisions of the Labour Code, at any rate so far as the penalty of imprisonment in default was concerned. But in Ceylon we have a more barbarous law, little removed from slavery and it enjoins that a servant—a labourer is a servant according to the law—refusing to work without reasonable cause or guilty of drunkenness, wilful disobedience of orders, insolence, or gross neglect of duty or who shall quit his employer's service without the prescribed month's notice, shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 50 or with both and that a servant making a false statement as to his former employment, or denying his former employment, shall be punishable with a fine of Rs. 30 or with imprisonment with or without hard labour for a period not exceeding three months or with both. The Ceylon Committee which is so solicitous to protect the agricultural industry and has proposed to adopt the Malaya system might have condescended to examine this particular abuse and suggest suitable remedies. And it is because it ignores it altogether that one is tempted to infer that it cared a brass farthing so far as the personal liberty of the labourer was concerned to inquiry which fails to tackle this problem has any claim for the consideration by the Indian public. There is again the long-standing grievance regarding the low wages of Indian labourers, which the Committee has not cared to go into, though it is clear that securing of the labourer from getting into debt without at the same time enabling him to get decent wages is futile. The Ordinance reproduces the theoretical rule about a month's notice in the case of labourers, who desire to quit service but we fail to notice that any steps are suggested to render the pinpricks, the petty annoyance and oppression on the part of the employer during the one month impossible. This abuse is prevalent to a great extent also in Malaya where the system of aided emigration is in force, and labour there is admitted to be restless and the Marjoribanks-Maricair report records the fact that one-third of the labour force there moves about from one employer to another annually. Assisting emigration and at the same time controlling and supervising employment of labour are incompatible functions, and in any case it is open to question whether the approximation of conditions in Ceylon to those in Malaya is the best possible solution of a grave question, especially when the glaring evils of the Malayan system are known and remain yet to be removed. But it is the duty of the Madras Government to resolutely refuse the invitation of the Ceylon Government to walk into their parlour. As we have pointed out, there are crying evils of the system which the Committee have entirely ignored and it is for the Local Government to examine whether there are not openings for labour in Southern India which would absorb the force now available and more.

(2)

Demi-official—from the Hon'ble Mr. N. E. MARJORIBANKS, C.I.E., I.C.S., Acting Chief Secretary to Government.

To—H. BROWN, Esq., I.C.S., Under Secretary to Government, Home (Miscellaneous) Department.

Dated—Ootacamund, the 22nd August 1919.

With Mr. Ramachandra Rao's permission will you please send me again the file about the draft Ordinance and recent conference and a copy of Maricair and my report.

Submitted.

2. Sorry I could not get it finished before leaving Ootacamund for Madras.

N.E.M.—28-8-19.

Bel

Extract from the "Hindu", dated 19th August 1919.
Indian Labour in Ceylon.

The *Hindu* grudgingly admits that "the Ceylon Committee have proposed a few remedial measures of first rate importance" but takes away the grace of this admission by alleging that "all of them have proceeded from the point of view of one who is anxious to be no more bothered by the difficulty of labour scarcity which would spell ruin to Ceylon agriculture".

2. Putting generalities and malice aside, the "crying evils" which the *Hindu* maintains the committee have ignored are the following: First the question of imprisonment for labour offences. On this subject I would invite attention to paragraphs 41 to 44 of Mr. Maricair's and my report. It will be seen that (1) the penal laws affecting the estate labourers are not special to his case but a general law that applies in Ceylon to all servants labourers and journeymen artificers; (2) that the number of cases filed against estate labourers is about 1 per 100 labourers and of these cases only about half come into court finally and one-third are convicted; and (3) that but for the debt system which induces an employer to prosecute it is doubtful whether there would be any appreciable number of prosecutions at all.

3. The facts may be contrasted with the *Hindu* language 'a barbarous law' 'little removed from slavery'.

4. The next point referred to is "the longstanding grievance regarding the low wages of Indian labourers". This is again a mere assertion or assumption. Information on the subject of wages and work of the estate labourers in Ceylon will be found in paragraphs 36 to 39 of our report—pages 11 and 12. And the facts there given may be compared with Mr. Gray's account of the panchama labourers in this Presidency.

5. The last point to which the *Hindu* refers is that they "fail to notice that any steps are suggested to render the pinpricks, the petty annoyance and oppression on the part of the employees (sic) during the one month impossible".

'Pinpricks,' 'petty annoyance and oppression'.—The argument is childish I submit. The labourer is not a nervous journalist but one hardened to the slings and arrows of outrageous fortune.

N. E. MAJORIBANKS—28-8-19.

Mr. Marjoribanks deals effectively with the *Hindu* article of the 19th August, but he has not answered my further request for his advice as to the issue of any communiqué on the subject of our conference with the Ceylon deputation.

2. This point was discussed at pages 27-29 in the notes to the linked file and the outcome was the demi-official No. 2918-1, dated 19th July 1919, to Mr. Gwynn (page 29) and the specific request to the Ceylon Government in our letter No. 1131, dated 23rd July 1919, for "copies of any matter relating to the well being and control of immigrant labourers which (they) might decide to communicate to the Press".

3. The answer to that inquiry is the current file below—viz, a letter from the Colonial Secretary, dated 15th August 1919, sending us copies of—

(1) a report on recruitment of Indian Labour (42 pages of print on sale at the Ceylon Government record office—which we need not, I think, reprint and publish),

(2) a draft of the new Ordinance,
(3) a memorandum on it.

These we may republish—Editors' Table.
L.D.—31-8-19.

Items (2) and (3) differ somewhat from the advance copies we received and discussed with the Ceylon deputation in June: and I do not think (as was suggested to me) that we could properly publish the minutes of our confidential discussion (pages 22-27 of file below), which indeed would be in places unintelligible without the earlier and unpublished drafts of the Bill and memorandum. We certainly could not do so without the assent of Ceylon and I do not believe that would be given.

4. The Ceylon Government should, I think, receive copies of the minutes (these should, be given paragraph numbers) of the discussion. The Secretariat should examine the original and final copies of the draft Ordinance and memorandum and point out the variations, indicating such as were apparently due to the discussion.

L. D. [AVIDSON]—31-8-19.

(The notes to G.O. No. 1130, dated 23rd July 1919, ought to have been printed up before now: are they now in the press?)

(The notes have been printed and a copy is put up below flagged 5).

A. Y. G. CAMPBELL—1-9-19.

W[ILLINGDON]—2-9-19.

Go. No 1130 dated 23rd July 1919

Notes to G.O. No 1130 dated 23rd July 1919

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4 NOTES TO G.O. Nos. 1300-1301, HOME (MISCELLANEOUS), 10TH SEPTEMBER 1919

HOME (MISCELLANEOUS) DEPARTMENT.

A draft letter acknowledging the receipt of the six copies of the Report, Ordinance and Memorandum forwarded with the Colonial Secretary's letters on pages 12-13, current file, and forwarding a copy of the minutes of discussion with the deputation (paragraph 4 of Honourable Member's note, page ante) is submitted for approval.

2. With reference to the order of the Hon'ble Mr. Davidson on the margin of page ante a draft order is submitted.

3. The comparison of the original with the present Ordinance ordered by the Hon'ble Mr. Davidson in paragraph 4 of his note on page ante and the expression of the views of this Government on the report and Ordinance (please see paragraph 2 of Mr. Holderness's letter, dated 19th June 1919) may be left to be taken up in the Revenue (Special) Department after the issue of the letter and the order in the two paragraphs above.

S.N.P.—9-9-19.

S.A.—9-9-19.

C.H.B.—10-9-19.
R.R.—10-9-19.

[G.O. Nos. 1300-1301, Home (Miscellaneous), dated 10th September 1919.]

referred to
Chandam Rao

PRESS SLIP.

Seott. II-38-1.702-17-1-18.

ORDINARY.

PREFERENCE.

URGENT (a).

Home (nu) DEPARTMENT.

Current No., dated..... 191 ..

G.O. No. 1300-01 dated 10 Sep 1919.

Number of MS. pages sent {
 (b) Correspondence.....
 (b¹) Notes.....

Brief subject..... *Emigration - Ceylon*

(c) Number of copies required when struck off (including copies for volumes and editors' file which are retained in the Press).	E. T. copies to supply requisitions for purchase by the public.	Complete correspondence and orders.	Notes.
FOR RECORD.*			
Madras Records	4	20	20
Coty Records		5	5
For filing with original		1	1
Total		24	24

FOR ISSUE.†

	Letter only.	Complete G.O.	(b) Special issue copies of G.O.		Notes.
			No.	Papers.	
Signature copies.....		2			
India Office.....					
Govt. of India..... Dept.					
Revenue Department.....					
Public Works Department.....					
Local and Municipal Department.....					
Educational Department.....					
Public Dept.....					
Judicial Dept.....					
Political.....					
Financial Dept.....					
Marine Dept.....					
Ecclesiastical Dept.....					
Total					
The <i>Extras</i>		38			
The.....		40			
The.....					
The.....					
The.....					
The.....					
The.....					
The <i>ET. Set Exha</i>			20		
The <i>Copies</i>					
The.....					
The.....					
The.....					
The.....					
Total		40	20		

Distributed on..... (Press Clerk).

..... (Press Despatcher).

Filed and dated.

INSTRUCTIONS FOR THE SECRETARIAT.

(a) If a paper is marked to be printed urgently, the Superintendent of the section concerned should sign the Press slip. The Superintendent should exercise a careful discretion in the matter.

(b) Each letter, memorandum, or order or set of orders, in the file of correspondence should be headed in succession with the Roman numeral I, II, III, etc., the number being written in red ink or blue chalk above the item. The particular papers to be printed in the special issue-copies should be indicated by the Roman numeral (I, II, etc.) by which that item has been headed in the correspondence file. All matter, including marginal remarks or references, to be printed should be written in ink and matter which should not be printed should be encircled. Initials and signatures that are not quite legible should be re-written distinctly.

(b¹) For rules regarding printing of notes, see rule 315 of the office Manual.

(c) The number of copies and the details of distribution should be filled in by the Superintendent or Referencer concerned.

(d) In the absence of special instructions to the Press to keep matter standing for a specified period, ordinary papers of 8 pages and under will be kept standing for one week, and larger papers for two weeks only. The type of notes and of all confidential papers is distributed immediately after striking.

(e) This slip, properly and completely filled in, should accompany every paper sent to Press; it will be returned by the Press when proofs are furnished; it should be sent to the Press when a call is made for revised proofs or when a corrected proof is sent for striking. When finally returned by Press it should be filed with the original order or letter.

INSTRUCTIONS FOR THE PRESS.

(a) If, in the opinion of the Superintendent of the Press, a paper has been marked urgent unnecessarily, he should send the Press slip to the Registrar with a remark to that effect.

(b) Unless a note to the contrary is made against the matter, pencil entries should not be printed. The Superintendent of the Press may bring to the notice of the Registrar any instance of incomplete or careless editing.

(c) Signature copies of letters to the Secretary of State or to the Government of India should be printed on hand-made paper.

(d) This slip should be returned by the Press to the Secretariat when proofs are furnished; it will be sent back to the Press when proofs are returned corrected and should be finally returned to the Secretariat when struck-off copies are supplied.

(e) The names of the Secretary and Members should be printed in full when they occur on the right hand side, only the first time when they appear on the left side, the initials alone being printed later.

TO PRESS, MADRAS OOTY.

A
Please send proof in duplicate. The papers have been carefully edited.

B
Proof returned corrected. Please strike off and send number of copies as indicated.

C
As the matter is clear manuscript and has been carefully edited, (b) proof need not be sent. Please print and supply number of copies as indicated.

Type may be released after usual interval at once.

Type may be released after usual interval.

Referencer.
Clerk.

Referencer.
Clerk.

Referencer.
Clerk.

Supt.

Supt.

Supt.

SPECIAL INSTRUCTIONS.

Pen

*Please get out the E.T. copies very early.
After issue of the E.T. set, the signature & record set may be taken up.*

*SM
11-5-19*

TO BE FILLED IN BY THE PRESS.

Diary.	Initials of Press official.			
Received in Press on.....				
First proof furnished on.....				
Call for revised proof received on.....				
Revised proof furnished on.....				
Corrected proof received for striking on.....				
Final copies supplied on.....				

Account of copies.	Complete copies.	Notes.	Issue copies.	Special E.T. edition.
Supplied to Secretariat for Record.....				
" " " Issue.....				
" " " for Extra E.T. copies to supply requisitions for sale to the public.				4
For Volumes.....				
For supply to newspapers and institutions admitted to the privileges of the E.P.				
Total ...				

*28/2/21/PH
4455/8*