

- (1) பக்கங்களின் எண்ணிக்கை 10-19
- (2) புதுக்கித் திருப்பிய நாள்
- (3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

பெளத துறை

அரசாணை எண். 216	அச்சகம்
மு. கோப்புத் தரள் எண். 17-1-89	பலவகை
நாள் :	1989.

மடிக்கவோ கண்டபிடி கையாணவோ கூடாது.

ஆவண. கா. 1-18,006-6-9-90.

F.C. no 628/89

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ORDINARY, MS.

<i>Puleis</i> DEPARTMENT.	
G.O., DATED	17.1.89
No.	46.

When given for copying

[Despatch Abstract.]

Re Proposed Draft
Ordinance amending
the law relating to
Indian Minipants
Employed on Estates in Ceylon

Queen's House,
Colombo 15th November 1888.

To

His Excellency,
The Viceroy and Governor General
of India in Council.

My Lord,

I have the honour to enclose for
your Excellency's information and that
of the Government of India an Extract
from a speech lately delivered by me in
opening the session of the Legislative Coun-
cil, the draft of an Ordinance read a
first time in the Legislative Council
on the 7th instant and the copy of a
despatch addressed by me to the Secre-
tary of State for the Colonies on the
subject of the status and payment of
coolie immigrant labourers in Ceylon.

2. I forward these papers not only
because I think it is right they should
be communicated to your Lordship,
but because as I need hardly say
the course to be adopted by this Govern-
ment will be largely influenced by
the views and wishes of the Government
of

of India.

I have ^{re}
(Signed) A. Gordon.
Governor.

(True copy)

ARATUCKER

Offg. Registrar, Revenue and Agril. Dept.

MD

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74-3

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From

H. W. Carnarvon, Esquire, C. S.,

Offg. Under Secretary to the Govt. of India,

To

The Secretary to the Government of Madras.

Revenue and
Agril. Dept.
(Emigration)

Madras, the 18th December 1888.

Sir,

I am directed to forward for the information of His Excellency the Governor in Council a copy of a letter dated the 16th November last, with enclosures, from His Excellency the Governor of Ceylon on the subject of Indian Immigration in that colony.

2. I am to state that the Government of India will be glad to be favored with the views of His Excellency on the proposed draft Ordinance amending the Law relating to Indian immigrants employed on estates in Ceylon.

Return

3. Return of the printed enclosures is
requested.

I have the honor to be,

Sir,

Your most obedient servant,

W. J. P.

Offy. Under Secy. to the Govt. of India.

WJ

(10)

44 35
[9] Public DEPT. INT.

1/10/88 No 1074 Prob.
21/7/88 No 852 Mis
31/7/86 No 902 Mis
30/10/86 No 902 Mis
11/11/89

From

G of I
Rev and Agri Asst.

Order 17-1-89 No: 46 Mis.
Referred to the Board
of Rev. and to the
Director of Emigration.
Lead for Rev. and
Un printed Incls.
will be provided by
the Board (when no
copy required) to the
Director, by whom they
will be returned to Govt.
with his reply.

No. 229 E
74-3

Dated 18th
Received 26th
Enclosures 5

SUBJECT.

Requesting to be favored with the
views of the Madras Govt. on the
proposed draft Ordinance amending
the law relating to Indian Immigrants
employed on estates in Ceylon.

Ed. of Rev. 21
As. of Emig. 8
30/11/89.

4/11-

17TH JANUARY 1889, No. 46, PUBLIC.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following papers :—

From H. W. C. CARNDUFF, Esq., C.S., Officiating Under Secretary to the Government of India, Revenue and Agricultural Department (Emigration), to the Chief Secretary to the Government of Madras, dated Calcutta, 18th December 1888, No. 229-E-74-3.

I am directed to forward, for the information of His Excellency the Governor in Council, a copy of a letter, dated the 16th November last, with enclosures, from His Excellency the Governor of Ceylon, on the subject of Indian immigration in that colony.

2. I am to state that the Government of India will be glad to be favored with the views of His Excellency on the proposed draft Ordinance amending the law relating to Indian immigrants employed on estates in Ceylon.

3. Return of the printed enclosures is requested.

ENCLOSURES.

From His Excellency the Governor of Ceylon, to His Excellency the Viceroy and Governor-General of India in Council, dated Queen's House, Colombo, 16th November 1888.

I have the honor to enclose, for your Excellency's information and that of the Government of India, an extract from a speech lately delivered by me in opening the Session of the Legislative Council, the draft of an Ordinance read a first time in the Legislative Council on the 7th instant, and the copy of a despatch addressed by me to the Secretary of State for the Colonies on the subject of the status and payment of coolie immigrant laborers in Ceylon.

2. I forward these papers, not only because I think it is right they should be communicated to your Lordship, but because, as I need hardly say, the course to be adopted by this Government will be largely influenced by the views and wishes of the Government of India.

EXTRACT FROM THE GOVERNOR'S SPEECH.

I have to invite your special attention to another Ordinance of much importance.

Two judgments delivered by the Supreme Court of the Colony in the course of last year have rendered necessary some revision of the laws by which the relations between the Indian immigrant laborers and their employers are at present regulated.

By the first of these judgments it was practically ruled, that unless an express contract, written or oral, of monthly service, had been entered into between the cooly and his employer, the former must be regarded as a daily, and not as a monthly, servant. That this is now the law there can be no doubt. A custom has, however, sprung up, and become firmly rooted in the habits of both employer and laborer, under which entry on the check-roll of the estate, and receipt of advances by the laborer, are held to imply a contract of monthly service on the part of the immigrant, and the consequent obligations on the part of the employer; and it is on the strength of this understanding that most of the laborers now on estates are at present working.

A subsequent judgment of the Supreme Court virtually repealed what is known as "The Coolies' Wages Ordinance, 1884."

The main points of that Ordinance are the provisions which enable coolies to sue jointly instead of severally, and to have all the claims against an estate adjudged summarily, and, to the extent of three months' wages, made a first charge on the estate. The first object has apparently been but partially attained; the second, the Supreme Court rules, has not been attained at

all; and the conversion of the cooly into a daily from a monthly laborer, has rendered nugatory the last provision.

Fresh legislation is therefore requisite, both as to the nature of the engagements between employer and employed, and as to the security of the latter for the payment of the wages earned by them.

As regards the former point, a settlement might without difficulty be effected by simply legalising the practice which has for years past been considered by employers, laborers, and magistrates alike to have constituted a binding monthly engagement.

As regards the second point, a decision as to the line which legislation should take is not so easy. It was open to me either to propose to re-enact substantially the Ordinance of 1884, taking care to rectify the flaws in it which the Supreme Court had pointed out, or to seek some other mode of effecting the end which that Ordinance had in view.

If machinery to ensure the regular and frequent payment of wages could be discovered which should be self-acting, and which would not throw upon the planters themselves any burden in the way of supplying returns which is distasteful to them, it would be an advantage to all parties.

This machinery, it appears to me, can be supplied by a provision, that if the wages of a cooly are more than a short time in arrear, he shall be released from all the liabilities to criminal prosecution to which he is subject, and may leave his employer's service when he will. The desire to avoid that state of things will, I think, be a sufficient incentive to ensure regularity of payment. If it is not, the planter will have no one but himself to blame if he finds that he is no longer able to put in force against the cooly the penalties imposed under the Ordinance of 1865.

An Ordinance on this basis has accordingly been framed, which will shortly be laid before you.

The question is, however, complicated by the fact that, during a long course of years, customs have grown up and become deeply rooted, which are not altogether in harmony either with the apparent intention of the framers of the Ordinance of 1865, or with the law as it is interpreted by the Supreme Court. I should have preferred to leave untouched and unquestioned customs which have, on the whole, I believe, worked to the mutual advantage of both employers and employed, and I was on that account reluctant to engage in fresh legislation on the subject. But legislation being resolved on, and it being necessary to define afresh the laborer's status, we are forced to decide how far we can honestly avoid either recognising and legalising by express enactment the state of things actually existing on many estates, or else securing to the cooly, in fact as well as name, the position as a monthly laborer, and the advantages of a monthly engagement, given to him by the Ordinance of 1865.

If the Ordinance now submitted is read a second time, I propose to refer it to a Sub-Committee, in which its provisions will be fully discussed, and modifications will, if necessary, be suggested. I rejoice to know that the deliberations of that Committee, like our own, will be conducted in a liberal and enlightened spirit, and with an entire absence of that heat and acrimony which have sometimes in past years marked the discussion of similar subjects.

MINUTE.

The following draft of a proposed Ordinance, which it is intended to bring before the Legislative Council, is published for general information:—

An Ordinance amending the Law relating to Indian Coolies employed on Ceylon Estates.

Whereas it is expedient to amend in the particulars hereinafter mentioned the Ordinance No. 11 of 1865: And whereas it is expedient to repeal the Ordinance No. 17 of 1862 and the Ordinance No. 16 of 1884, and to make more suitable provisions in lieu of those contained therein: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. There shall be repealed as from the commencement of this Ordinance—

(a) The Ordinance No. 17 of 1862, intituled "An Ordinance to ascertain the proportion of mortality amongst the natives of India employed in agricultural and other labor in Ceylon."

(b) The Ordinance No. 16 of 1884, intituled "An Ordinance to amend the Ordinance No. 11 of 1865, intituled 'An Ordinance to consolidate and amend the law relating to servants, laborers, and journeymen artificers under contracts for hire and service, and to provide for the speedy recovery of wages due to laborers.'"

Proviso.

Provided that this repeal shall not affect—

- (a) any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor
- (b) the continuance of any legal proceeding already instituted and which may be pending under any enactment so repealed for the recovery of any wages due, or penalty incurred, before the commencement of this Ordinance.

2. Section 18 of the Ordinance No. 11 of 1865, intituled "An Ordinance to consolidate and amend the law relating to servants, laborers, and journeymen artificers under contracts for hire and service," in so far as the same was repealed by the Ordinance No. 16 of 1884, is hereby revived. But nothing in the said section contained shall be deemed in any manner to apply to the first charge created by section 7 of this Ordinance, or to the proceedings herein provided for the enforcement of the same or for the recovery of wages generally.

Interpretation clause.

3. For the purposes of this Ordinance—

- "Estate" means any land in which laborers are employed, and of which ten acres or more are actually cultivated.
- "Laborer" means every laborer and kankani (commonly known as "Indian coolies") employed on an estate in other than domestic labor.
- "Wages" means all sums which may be due to a laborer for and in respect of the work and labor done by him on an estate.
- "Employer" means any person who is in possession of an estate in his own right as proprietor, trustee, mortgagee, or lessee, and who by himself or his agent has the chief supervision, control, and disposal of the services of the laborers working thereon.
- "Superintendent" means any person in the immediate charge of, and having the chief authority on, an estate.

4. Every laborer whose name shall be entered in the check-roll of an estate, and who shall have received an advance of rice or money from the superintendent thereof, shall, unless

he has otherwise expressly stipulated, be deemed and taken in law, anything in the Ordinance No. 11 of 1865 to the contrary notwithstanding, to have entered into a contract with the employer of hire and service for the period of one month, to be renewable from month to month; and every such contract shall be deemed and 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. Provided that such notice, if given by the laborer to the superintendent, shall be taken in law to be given to the employer.

And every laborer shall, equally with the employer, be bound by, and amenable to, the provisions contained in sections 4, 11, 13, 14, 15, 16, 17, 19, 20, 22, 23, 24, 26, and 27 of the said Ordinance, except as is hereinafter provided.

5. The wages of a laborer shall be payable monthly, and when such wages shall be payable at a daily rate, the monthly wages shall be computed according to the number of days,

not being less than six days in the week, on which such servant shall have been able and willing to work, whether the superintendent may, or may not, have been able to provide him with work.

Provided, that no laborer shall be entitled to any wages for such days or time as he may agree with the superintendent not to perform any service or work.

6. Every laborer shall be liable to punishment for neglecting or refusing to work, or for quitting service without leave or reasonable cause, or for neglect of duty, unless his wages for or more months immediately

preceding the month during which such offence is committed shall not have been paid in full, anything in section 21 of the Ordinance No. 11 of 1865 to the contrary notwithstanding.

Provided that, in computing the amount of wages due at any time, such laborer shall be debited with the amount of all advances of money made to him and with the value of all

food, clothes, or other articles supplied to him, and which the employer is not liable in law to supply at his own expense.

7. Laborers 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 thirty rupees earned by each laborer, 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.

8. The wages due to any laborer or laborers, 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 laborers 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 laborer or laborers employed on the same estate whose name or names may appear in the plaint, provided that the laborer or laborers suing shall satisfy the court in which the suit is instituted that he or they is or are authorised to sue for and on behalf of the other or others so named as aforesaid.

9. In any suit instituted under this Ordinance, the party sued or his representative, or any other person allowed by the court to intervene in such suit, shall be entitled to a set-off or counter-claim in respect of any sum of money, or the fair and reasonable price of any food, clothes, or other articles which the employer was not liable in law to supply at his own expense, but which money, food, clothes, or other articles had been advanced or supplied to the laborer or laborers as against the wages for which he or they may be suing.

10. In any suit to be instituted under this Ordinance, it shall be sufficient to designate the defendant as the "proprietor of the estate," specifying the name of the estate on which the laborer had been employed, without naming the proprietor or proprietors thereof.

11. 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 favor of the laborers 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.

12. 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 laborers 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. And 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.

Provided, however, that 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 laborers and such proprietor.

13. The Rules and Orders in Schedule A 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.

14. The superintendent of every estate 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 Government Agent of the Province in which the estate is situate, or to some other public officer who may be appointed by the Governor for that purpose, and of whose appointment a notice shall be published in the *Government Gazette*, true and correct returns 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 form given in Schedule B hereto. The returns shall be made in the English language, and copies of the said form shall be furnished by such Government Agent, on the application of the superintendent, free of charge.

Provided, that if any of the aforesaid days shall be a Sunday or public holiday, the said returns and declaration shall be made on the next following day not being a public holiday.

15. Any superintendent who shall refuse or neglect to make any returns by this Ordinance required to be made, in the form and on the days herein specified, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees; and the production of a certificate under the hand of the Government Agent, 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.

16. The Government Agent or such other officer as aforesaid 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 the Governor, with the advice of the Executive Council, shall from time to time require. And an annual general abstract of all such returns for each year shall be laid before the Legislative Council.

17. Nothing herein contained shall prejudice the right of any laborer to maintain a suit against his employer other than the proprietor of the estate on which he shall have been employed for the recovery of any wages which he may have failed to recover from such proprietor; and such suit may be instituted in a Court of Requests having in other respects jurisdiction in that behalf, whatever the amount claimed may be.

SCHEDULE A.

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.

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 apply any payments, whether in money or in food, clothes, or other articles proved to have been made in partial discharge of wages towards the payment of the antecedent wages in the order of time in which the same became due, and the Commissioner shall 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. Upon judgment being entered, the Commissioner shall order that the amount thereof be forthwith paid into court for the use of the plaintiff or plaintiffs, and on non-payment shall issue two separate writs—one for the recovery of the amount in respect of which a first charge shall have been declared, and another for the balance, if any.
5. 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, the Commissioner shall issue a certificate to that effect under his hand to the person making such payment.
6. The fiscal shall execute a conveyance of the said estate or part thereof on sale in execution in favor of the purchaser in the form hereto annexed, and the same shall be sufficient to vest title in the purchaser free from all encumbrances.
7. 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.
8. It shall be competent for any mortgagee or any other person interested in the suit to intervene therein, if allowed by the court to do so.

NOTICE.

NOTICE is hereby given that a suit has been instituted in the Court of Requests of —, by the laborers of — estate, against the proprietor or proprietors thereof, under the Ordinance No. — of 1888 for the recovery of their wages.

This — day of —, 188 — 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 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 encumbrances.

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

Witnesses.

Signature Fiscal.

SCHEDULE B.

I.—Return of Immigrant Laborers employed on the — Estate, in the District of — during the Quarter ended —, 188—.

Number of Laborers	Male.	Female.	

II.—Return of Births occurring among Laborers upon the above Estate during the Quarter.

Date of Birth.	Mother's Name.	Father's Name.

III.—Return of Deaths occurring among Laborers upon the above Estate during the Quarter.

Name.	Age.	Sex.	Name of Village.	Date of Death.	Probable cause of Death.

By His Excellency's command,

COLONIAL SECRETARY'S OFFICE,
COLOMBO, November 3, 1888.

E. NOEL WALKER,
Colonial Secretary.

No. 451.—Emigration.

QUEEN'S HOUSE, COLOMBO,
November 6, 1888.

MY LORD,

I had the honor duly to receive your Lordship's despatch ("Emigration") of the 3rd August, conveying your Lordship's approval of the draft Ordinance with respect to coolly labor, enclosed in my despatch No. 125 of the 14th March, subject to remarks relating to two clauses of that draft.

2. The insertion in clause 2 of the words suggested by your Lordship as a substitute for the present proviso, appears unobjectionable, and will be effected if the Bill retains its present form; but I confess that the revival and limitation of the clause taken from the Ordinance of 1865 seems to me a somewhat clumsy device, and I am not without hope that this part of the measure may be recast in a better shape.

3. Your Lordship also remarks on the omission to re-enact clauses 8 and 10 of the Laborers' Wages Ordinance of 1884, and states that you "presume I have satisfied myself they are not necessary for the protection of the cooly." Whether they are so or not depends entirely on the fate of clauses 4, 5, and 6 of the present draft. If it be enacted that payments are to be made monthly, and that when they are more than one month in arrear, the power of proceeding against the laborer, criminally, for absence, neglect of work, &c., ceases, I believe the provisions of the Cooly Wages Ordinance to be unnecessary. If no such provisions as those I have mentioned are contained in the Ordinance now to be enacted, the re-enactment of the clauses in question is not only expedient, but indispensable.

4. As regards this very important point, the position of matters has, unfortunately, somewhat changed since I wrote my despatch No. 124 of the 4th March. The draft of the Ordinance was prepared in concert with the representative in the Legislative Council of the Planters' Association, Mr. Downall, and he had consented—though, I admit, with reluctance—to the proviso that non-payment of wages for two months or more should free the laborer from the penal sections of the Labor Law. Mortal illness has, I lament to say, compelled Mr. Downall to resign his seat in the Legislature, and his successor, Mr. T. North Christie, is not altogether inclined to take the same view of the question as his predecessor.

5. Mr. Christie wishes to enact that a period of between three and four months must elapse since the last payment of wages to entitle the laborer to take advantage of the clause. I have no doubt he represents a large body of planters, and the want of Mr. Downall's influence and opinion will be widely felt. Had he been here, his tact and powers of persuasion would have certainly procured the acceptance—and probably the ready acceptance—of the Ordinance. As it is, an effort will be made to insert at least the word "three" or "four" instead of "two" before the word "month" in clause 6, and not improbably to legalize a system of quarterly payments.

6. In my opinion, this alteration of the draft Ordinance ought to be firmly resisted, but if conceded, then the re-enactment in full of the provisions of the Ordinance of 1884, with such amendments as may correct the errors in it detected by the Supreme Court, becomes imperatively necessary.

7. It is so much better that any check of this description should be self-acting, and not dependent for success upon inquisitorial provisions difficult to enforce, and the enforcement of which is sure to create irritation, that I think the retention of the word "two" in the Ordinance is in every respect preferable. But upon this point I should wish to know the opinion of Her Majesty's Government, and how far your Lordship is prepared to support the views I myself entertain in thinking that provision for the frequent payment of laborers should be insisted on in any new legislation.

8. If your Lordship does not share these views, and is disposed to yield to the wishes of the planters, the concession had better be made at once and without further friction.

9. But I trust your Lordship will adhere to the words, and not allow the nominally "monthly" engagement to be converted into an unreality. To pay laborers only four times a year, and always to keep at least three months' balance of wages in the hands of the employer, is in fact inconsistent with the idea of any true "monthly" contract. Whatever slight inconvenience may be at first involved in the adoption of regular and frequent payments, I am very sure that the system of monthly payments and short arrears would be soon felt—and not only felt, but recognized—to be one beneficial to both employer and employed. Monthly payment of wages twenty-eight days after they are due is already the rule on some estates, and those who have tried this system are loud in praise of the effects of its working.

10. I enclose a copy of the three principal clauses of the Ordinance, altered in the sense which appears to be desired by a considerable number of the planters, and which in their altered form represent, as I am assured by the Planting Member of Council, Mr. North Christie, the Chairman of the Planters' Association, Mr. Kelly, and another experienced and influential planter, Mr. Huntley Thring, not only the wishes of the planting community, but their present usual practice.

11. The revelation that a large number of planters habitually pay their coolies only four times a year, and that they then only pay the wages of the quarter ended three months previously, is somewhat startling, and in itself suggests the expediency of some effort being made to improve the system. It can never have been intended that the wages of a monthly laborer for January should be only paid to him at the end of June, along with those for February and March, and that those for April, May and June shall only be paid in September: nor can I think it desirable that such withholding from the laborers of the amounts due to them should be not only winked at, but protected by law, and deliberately sanctioned, as it would be if the wishes of the planters were complied with.

12. If the cooly be indeed what we profess to make him, a monthly servant, free, at the end of the month, if he does not re-engage, to take his services elsewhere, and free—even if he does re-engage—to leave his service without being criminally punishable for so doing, if he have not been paid his monthly wages within a month of their becoming due, I do not think any further special protective legislation is required for him. But the case is very different if his wages for any one month can be withheld from him for nearly six months. At the end of that time he is deeply in debt to the kangani and in the bazaar. His only chance of discharging these debts is by waiting in the service on the estate for his pay; he takes further advances which bind him to the estate yet more closely, and he can hardly be deemed a free monthly servant.

13. On the advantage of regular and frequent payments I need not dwell. They are self-evident, but I may as well state the chief reasons which are assigned for objecting—I will not say to their enforcement (for the proposed Ordinance does not profess to enforce them)—but to their encouragement, which is no doubt aimed at by it.

14. First: it is said that the coolies do not like the regular payment of only small sums of money, and prefer to leave their wages to amount to a considerable sum in their employer's hands. On this point I am somewhat incredulous. The same thing was said in British Guiana and in Mauritius, as an excuse for long delays of payment, but it was abundantly shown in those colonies that the cooly fully appreciates regular pay when he can get it; and I am assured by those who manage estates here, on which monthly payments are made, that when once the system has been

fairly introduced, nothing would induce the coolies to accept of any other arrangement. Nor am I certain that the matter is one which should be settled by the coolies' preference alone. But if it be really the case that they do not like regular monthly payments, there is nothing in the Ordinance which renders the offer or the acceptance of such payments compulsory. The punitive check on insubordination, neglect, and desertion is removed where payment is delayed, but if the frequent payment of wages be really disliked by the cooly, and has been delayed at his own request, it is hardly to be supposed that he will avail himself of the privilege of leaving the estate which the Ordinance will give those whose wages are unpaid.

15. A second reason assigned for quarterly payments and the retention of three months' wages in the hands of employers, even when payment is made, is that such retention is necessary in order to afford the planter security for the repayment of the advances he has made to the kangani, who has recruited for him on the coast of India.

16. I will not now enter upon a discussion of the whole system of advances. It is, to my mind, open to many objections, but it is one which has become so thoroughly a part of the planter's ordinary course of operations, that it must be accepted as a fact. But I very much question the propriety of retaining in hand a laborer's wages as a security for advances made, not to him, but to the kangani. It is true that the advances made to the kangani are supposed to be in great part (not wholly) advanced again by him to the coolies, but this need not be so, and it is not always the case. At all events, it appears to me hardly right that the law should formally sanction an arrangement which is *prima facie* inequitable, and which might be grievously abused.

17. Thirdly: it is alleged—and with great truth—that the retention of a portion of the laborer's wages by his employer gives the latter a strong hold over him, and is a most effective preventative of desertion and neglect of duty. This is undeniable; but whether the hold is one which can legitimately be given, is a much more doubtful question.

18. Had Mr. Downall been still at the head of the Planters' Association, and representative of the planters in the Legislative Council, I have little doubt that the Ordinance, as drafted with his concurrence, would have been accepted; not indeed without some grumbling, but without active opposition. As it is, amendments in the sense of the altered draft will certainly be pressed; but I am inclined to think that such opponents would be satisfied with the insertion of the word "three" in the 6th clause of the original draft.

19. Whether this compromise is one which should be effected, I leave it to your Lordship to judge. The objections to it are, that it as effectually disposes of the idea of a monthly engagement as a much longer delay; that long-deferred payments are in themselves open to objection; and that, if a three months' delay be allowed, I can no longer say that I think it would be prudent to remove such checks and precautions against abuses as still exist, or to refrain from re-enacting the provisions of sections 8 and 10 of the Cooly Wages Ordinance of 1884. That they are not unnecessary may be gathered from the fact that cases in which wages are 15 months, 10 months, and 7 months due have come to my knowledge in the last few weeks: and in the present state of the law it is, I fear, but too likely that the whole of these amounts will be lost to the coolies. It will also be seen from the enclosed extract from a newspaper giving an account of the proceedings of the Návalapitiya Planters' Association, that the Association recommends the boycotting of a Proctor who has been employed by coolies to recover their wages for them, and also pledges its members to employ no laborer who has left his former service without his master's consent—a proviso which would, of course, reduce freedom of action on the coolies' part, as to discontinuance of service, to a nullity.

20. The existence of provisions sure to excite friction between the Government of the Colony and a body so important and powerful as the planting community, is, however, so great an evil that to secure their abolition I should be disposed to insist on the retention of the clause as originally drafted, and trust to the speedy cessation of any feelings of irritation on the part of the planters which it may at first cause. In a few years that irritation would be forgotten, and the benefits of a system of prompt payment to both employer and employed fully recognized; while, though acquiescence in the wishes of the planters might produce temporary satisfaction, the checks which it would be then necessary to maintain, and re-institute, would keep up a perpetual friction and soreness far more injurious, in the long run, than any temporary discontent.

21. The Legislature met on the 31st ultimo, and the Ordinance will be introduced and read a first time on Wednesday, in the form enclosed, but another month at least will elapse before it is read a second time and goes into the Committee. I shall then propose to fill the blank with the word "two," but it will continue in sub-committee until I have received from your Lordship a reply to the present despatch.

I have the honor to be,

Sir,

Your most obedient, humble Servant,

(Signed) ARTHUR GORDON.

10

17TH JANUARY 1889, No. 46, PUBLIC.

ORDER—dated 17th January 1889, No. 46, Public.

Referred to the Board of Revenue and to the Protector of Emigrants, Madras,
for remarks.

(True Extract.)

Chief Secretary.

To the Board of Revenue.
„ Protector of Emigrants, Madras.

Exd A. Raitt.

PUBLIC DEPARTMENT.

G.O., 17th January 1889, No. 46.

Indian Immigrants.—Regarding the proposed draft ordinance amending the law relating to — employed on estates in Ceylon.

READ AGAIN ORDER OF GOVERNMENT, dated
188 , No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT A A

STATEMENT WITH DITTO.

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BACK PAPER, No.

OF 188

FURTHER PAPER, No.

OF 188