

under
general issue.

plead the general issue, and give this Ordinance, and the special matter in evidence at the trial to be had thereupon, and that the same was done in pursuance and by authority of this Ordinance, and if it shall appear to have been so done, or if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, then and in every such case the jury shall find for the defendant, and upon such verdict, or if the plaintiff shall be nonsuit or discontinue, or if a verdict shall pass against the plaintiff, or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover treble costs, and have the like remedy for the recovery thereof as any defendant hath in other cases.

Provides as
to tendering
amends and
costs.

Commence-
ment of Ordi-
nance.

38. And be it further enacted, That this Ordinance shall be in force and take effect from and immediately after the promulgation thereof.

Passed in Council this first day of June, one thousand eight hundred and forty-six.

THOMAS F. JOHNSTON,

Clerk of Council.

The foregoing Ordinance was duly proclaimed in Port of Spain this thirteenth day of June, one thousand eight hundred and forty-six.

A. CLOGSTOUN, *Marshal.*

No. 6.—1846.

AN ORDINANCE for regulating the relative Rights and Duties of Masters and Servants.

(L. S.) HARRIS.

WHEREAS it is expedient that the hirings of servants in husbandry, of sailors and boatmen employed on board vessels and boats belonging to the Colony, of

menial servants and of artificers, handicraftsmen and other labourers in the Colony, should be properly regulated, and that provision should be made for the more easy recovery of the wages of such servants in husbandry, sailors and boatmen, menial servants, artificers, handicraftsmen, and other labourers, and for the more ready determination of all disputes connected with such hirings: Be it therefore enacted by his Excellency the Governor and Commander-in-Chief in and over the said Island and its dependencies, by and with the advice and consent of the Council of Government thereof, That from and after the commencement of this Ordinance, if any servant shall contract with any other person to serve him for a time certain or in any other manner whatsoever, and shall not enter into or commence his service according to such contract, such contract being in writing and signed by the contracting parties, or having entered into such service in pursuance of or under any such contract (whether the same shall be in writing or not in writing) shall wilfully absent himself from his service or shall refuse to fulfil the same, before the term of his contract shall have been completed, whether such contract shall be for a time certain or work certain, or under the provisions hereinafter in that behalf contained, unless for some reasonable cause as hereinafter provided, or shall by negligence or other improper conduct lose, throw away, or damage the property of his employer, or shall endanger such property by a careless or improper use of fire, or shall wilfully maim, wound, or cruelly ill-use any cattle or other live-stock belonging to his employer, every such offender on conviction thereof shall suffer such punishment by fine or imprisonment in the Royal Gaol or other lawful place of confinement, with or without hard labour for the whole or any part of such imprisonment, such fine not to exceed five pounds sterling, and such imprisonment not to exceed thirty days, as to the convicting Justice or Justices shall seem fit.

Penalties on servants for breach of contract, damage to property, &c.

2. And be it enacted, That if any such servant shall be guilty of any wilful misconduct or ill-behaviour in such service, such offender on conviction thereof shall forfeit and pay such sum not exceeding forty shillings sterling, or be imprisoned in the Royal Gaol or other

Penalty on servants for wilful misconduct.

lawful place of confinement for such term not exceeding seven days, as to the convicting Justice or Justices shall seem fit.

Wages of servants may be abated.

3. And be it enacted, That the Justice or Justices by and before whom any complaints shall be heard and determined, may, in addition to such fine or imprisonment as hereinbefore directed, abate the whole or any part of the wages due to such servant, and direct the same to be retained by and to the use of the employer of such servant, and in the event of any servant being sentenced to imprisonment no wages shall accrue to him during such imprisonment.

Penalty on employers for ill usage of any servant.

4. And be it enacted, That if any employer shall ill-use any servant, or shall not deliver to any servant any articles stipulated for, and which by the contract of service were to be furnished by the employer to the servant, or if the articles so furnished shall not be of the stipulated quantity or quality, every such employer being convicted of any such offence shall forfeit and pay such sum not exceeding twenty pounds sterling, including the reasonable costs of such servant, as to the convicting Justice or Justices shall seem fit.

Contract for service to be deemed monthly contracts.

5. And whereas contracts of hiring are frequently made without any particular period limited for their duration, or as to the notice required for terminating the same respectively, and great inconvenience is thereby occasioned: For remedy therefore be it enacted, That in the absence of any express agreement to the contrary, every contract for service shall be deemed and taken to be a contract for one month at the least from the time of entering on such service (such month to be deemed a lunar month in the case of agricultural labourers, and a calendar month in all other cases), and to be terminated at any time by mutual consent of the parties, or by either party at the expiration of the first or any subsequent month, on giving fourteen days previous notice to the other party in writing, or in the presence of a credible witness, or for any such good and sufficient cause as hereinafter provided.

Penalty on employer wrongfully terminating

6. And be it enacted, That if any employer shall terminate any contract entered into with any servant for service for a time uncertain, except with the consent

of such servant, or by giving fourteen days notice as aforesaid, or for some good and sufficient cause as herein-after provided, such employer shall forfeit and pay to the use of the servant a sum equal to one month's wages according to the rate of wages which may have been fixed by and between the parties, or if the rate of wages shall not have been so fixed, then, such sum as the Justice or Justices may consider fair and reasonable as and for a month's wages, regard being had to the class of the servant, and the nature of the duties contracted to be performed, in addition to the wages due to the servant at the time of the termination of such contract.

any contract for service for time uncertain.

7. And be it enacted, That if any employer, having engaged any servant, for service for any period of time certain, or for the performance of any particular work, shall put away, dismiss, or discharge such servant before the completion of his contract, such employer, unless he shall be able to prove reasonable and sufficient cause for putting away such servant, shall forfeit to the use of such servant such sum not exceeding five pounds sterling, as the Justice or Justices shall consider a reasonable compensation for the wrong and injury done to such servant.

Penalty on employer for wrongfully terminating any contract for a time certain.

8. Provided always, and be it enacted, That it shall be lawful for any employer to discharge any servant who shall be guilty of any misconduct, or wilful omission, or neglect of duty without notice and without payment of any wages beyond the wages due at the period of such discharge; and to any complaint made in respect of such discharge, such misconduct, or wilful omission, or neglect of duty proved, shall be a sufficient answer.

Employer may discharge servant for misconduct.

9. And be it enacted, That on any complaint made by any employer against any servant for refusing or wilfully neglecting to perform his contract, such servant shall be at liberty to show by evidence, in answer to such complaint, that he terminated his service or contract in consequence of ill-usage by his employer, or for some other good and sufficient cause to be judged of by the Justice or Justices.

Servant may terminate contract for ill usage by employer.

10. And be it enacted, That upon any complaint made by any employer or servant, the Justice or Justices by whom such complaint shall be heard may, if he or they shall see fit, discharge such employer or servant

Justice or Justices may discharge servant from his contract.

from his contract or service in addition to any other order made on such complaint, and shall, in case of such discharge, award to such servant the whole or such proportion of the wages appearing due to him as the Justice or Justices shall think reasonable, and shall give to such employer or servant, as the case may require, a certificate of such discharge and of such award of wages without any fee or consideration.

Contracts for service, what shall be deemed such.

11. And be it enacted, That no contract for service not made within this Colony and on the land of the Colony shall be a contract within the meaning of this Ordinance, or valid or binding on the parties thereto or any of them, unless such contract shall be in writing and shall be made and entered into by the person who is therein bound to perform such service whilst such person is within the limits of the United Kingdom of Great Britain and Ireland, or in some other part of Europe, or in the United States of America, or some British Possession in North America, or the West Indies; and no contract for service shall be valid or binding on either of the parties thereto for any longer term than the period of one year from the time when the service under such contract shall be commenced according to the terms of the contract.*

Contracts for labour by day or task to be determinable only on twenty-four hours' notice.

12. And be it enacted, That where any servant in husbandry shall enter into the service of any employer as a labourer by the day or task, the contract between the parties shall, in the absence of any express agreement to the contrary, be deemed and taken to be a contract for one day certain, and so on from day to day (Sundays only excepted), to be terminated only by mutual consent, or by either party on giving twenty-four hours previous notice to the other party in the presence of a credible witness, or for some good and sufficient cause; and if any employer shall wrongfully discharge any such servant in husbandry without some reasonable and sufficient cause, and without giving such notice, or if any such servant shall wrongfully quit the service of such employer without some reasonable and sufficient cause, and without giving such notice, every such offender on conviction thereof shall forfeit and pay to the use of the other party such sum not exceeding twenty shillings

* This period of one year extended by the Ordinance No. 8, of 1847.

sterling, exclusive of costs, as to the convicting Justice or Justices shall seem fit.

13. And be it enacted, That all complaints, differences, and disputes which shall arise between any employer and any servant touching or concerning any wages or allowances which may be due to such servant, shall and may be heard and determined by any Justice or Justices acting under this Ordinance, and it shall be lawful for such Justice or Justices to make order for the payment of so much wages or the value of such allowances as shall appear to such Justice or Justices to be justly due and owing to such servant, according to the terms of his contract, together with the reasonable costs of such servant, provided that such wages or the value of such allowances shall not exceed the sum of twenty pounds sterling, and the complaint be made within six months after the same became due.

Justice or Justices to have jurisdiction in respect of wages.

14. And be it enacted, That if any person shall knowingly entice or inveigle away any servant within the meaning of this Ordinance from the service of his employer, and such servant shall accordingly quit such service before the expiration of his contract, or if any person having engaged such servant without notice of his previous retainer shall receive into his service or continue to employ such servant after notice of his having so quitted the service of his employer, and during any part of the time when the first term of service shall be running, every such offender on conviction thereof shall forfeit and pay such fine not exceeding ten pounds sterling, as to the convicting Justice or Justices shall seem fit.

Penalty on person wrongfully enticing away any servant.

15. And be it enacted, That jurisdiction under this Ordinance for the enforcement of all contracts between employers and servants shall be vested in the Stipendiary and other Justices of the Peace of the Island, and all complaints to be made under this Ordinance shall be heard and determined by the Stipendiary Justice or any two Justices of the district or place where the employer shall reside, or the offence shall be committed; and in all cases to be dealt with under this Ordinance and not herein otherwise specially provided for, the Justice or Justices shall proceed according to the Ordinance entitled "An Ordinance for regulating the mode of proceeding

Jurisdiction under this Ordinance vested in Stipendiary Justice or any two Justices.

in cases of offences punishable on summary conviction.”

Application of
wages, fines,
&c.

16. And with regard to the application of all wages, fines, forfeitures and penalties upon summary convictions under this Ordinance, be it enacted, That every sum of money which shall be awarded for wages or allowances due to any servant, shall be paid to the servant entitled thereto; and every sum which shall be forfeited by any employer for discharging any servant without due notice as aforesaid shall be paid to such servant; and every sum which shall be forfeited by any employer for any ill usage of any servant may, at the discretion of the convicting Justice or Justices, be paid and applied to the use of such servant as compensation for the injury he may have sustained, or be paid and applied to the use of the Colony; and every sum which shall be forfeited for any wrong or injury done shall be paid to the party aggrieved (if known) notwithstanding such employer, or servant, or party aggrieved, may have given evidence on the adjudication of such matter as aforesaid, or where not known such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty, whether in addition to the amount awarded for any wrong or injury as aforesaid, or otherwise, shall be paid into the Treasury of the Island for the use thereof: Provided always that where several persons shall join in the commission of the same offence and shall each, on the conviction thereof, be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only, and the corresponding sum or sums forfeited by the other offender or offenders shall be applied in the same manner as a penalty is hereinbefore directed to be applied.

Award of
wages, fines,
&c., how to be
enforced.

17. And be it enacted, That every award of wages or other sum of money to be paid to any servant, and every fine, penalty, and forfeiture, and all costs and charges which shall be laid, imposed, forfeited, or awarded under the provisions of this Ordinance, if not paid at the time of the conviction, or within such time as the Justice or Justices shall appoint or direct, shall be enforced by warrant under the hand and seal of any one convicting Justice, or of any other two Justices, authorizing a

distress and sale of the defendant's goods and chattels, rendering any overplus which may remain after deduction of the amount of the wages or sum of money, fine, penalty, or forfeiture, together with the costs, and also the costs of distress and sale, to the defendant on demand; and in default of sufficient goods and chattels whereon to levy, then it shall and may be lawful for any two Justices, by warrant under their hands and seals, to direct any such defendant or offender to be imprisoned for any period not exceeding three calendar months, unless the wages, sum of money, fine, penalty, or forfeiture, and all costs and charges necessarily incurred in carrying any order, award, judgment, or determination made under the provisions of this Ordinance into execution be sooner paid; such imprisonment to be without hard labour where the order or adjudication shall be for the payment of any wages or sum of money due and ordered to be paid by any employer to any servant, and such imprisonment in all other cases to be with or without hard labour during the whole or part of such imprisonment, as the convicting Justice or Justices shall direct.

18. And be it enacted, That it shall be lawful for the Justice or Justices by whom any complaint under this Ordinance shall be heard, to examine on oath as well any employer or servant being the party complainant or defendant as any witness touching the matter of such complaint.

Employer or
servant to be
examined on
oath.

19. And be it enacted, That no order, award, or adjudication, touching any of the matters in this Ordinance contained, nor any conviction of any offender under this Ordinance, shall be quashed for want of form; and where any distress shall be made for any fine, penalty, or sum of money to be levied under and by virtue of this Ordinance, the distress itself shall not be deemed to be unlawful, nor the party making the same be deemed a trespasser on account of any defect or want of form in the summons, warrant of distress, or any other proceedings relating thereto, nor shall such party be deemed a trespasser on account of any irregularity which shall be committed by the party distraining, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage, if any, in an action upon the case; and no plaintiff shall recover

No Order, &c.
to be quashed
for want of
form.

in any action for such irregularity as aforesaid, if tender of sufficient amends shall have been made by or on behalf of the party distraining before such action brought.

Interpretation
of terms of
Ordinance.

20. And be it enacted, That within the meaning and for the purposes of this Ordinance, all masters, mistresses, foremen, attorneys, agents, managers, overseers, clerks, and other persons engaged in the hiring, employing, or superintending the labour or service of any servant within the meaning of this Ordinance, shall be and be deemed "employers," and any money or other thing paid or contracted to be paid, delivered, or given as a recompence, reward, or remuneration for any labour or other service done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, shall be deemed and taken to be the "wages" of any servant, and any agreement, understanding, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which any employer and any servant are parties, or are assenting, or by which they are mutually bound to each other, shall be and be deemed a "contract," and all servants in husbandry, mechanics, artificers, handicraftsmen, labourers, persons employed in droghers or other vessels, and all household and other domestic servants, shall be deemed to be comprised within the term "servant," and every labourer or mechanic employed upon any sugar, cocoa, or coffee estate, shall be and be deemed to be a servant in husbandry; all words importing the singular number only shall include several person or things, as well as one person or thing; and all words importing the masculine gender only shall include females as well as males, unless it be otherwise especially provided, or there be something in the subject or context repugnant to such construction.

Commence-
ment of
Ordinance.

21. And be it enacted, That this Ordinance shall take effect from and immediately after the promulgation thereof.

Passed in Council this first day of July, in the year of our Lord one thousand eight hundred and forty-six,

THOMAS F. JOHNSTON,
Clerk of Council.