

TRINIDAD AND TOBAGO.

Sugar Industry Relief.

No. 19.—1902.

15th July.

AN ORDINANCE to provide for the creation and regulation of a Fund for the assistance of the Sugar Industry.

[L.S.]

C. C. KNOLLYS,

ACTING GOVERNOR.

17th July, 1902.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

1. This Ordinance may be cited as the Sugar Planters Short title. Refund and Loan Ordinance, 1902.

2. In this Ordinance the term—

“ Owner ” means the proprietor of an estate cultivated in sugar and comprising a factory or mill for the manufacture thereof; and includes a life tenant and any person entitled to other partial interest with limitations over; and also includes guardians of infants, committees of lunatics and trustees and executors, if charged by the instrument appointing them with the cultivation or the receipt of the rents and profits of any such estate. When any such estate is in possession of a mortgagee, the mortgagee shall be deemed the owner for the purposes hereof. Interpretation.

“Encumbrancer” includes all persons entitled whether by registered deed, or as consignees or otherwise, to a charge or lien on the estate or on or out of the crop proceeds or profits thereof; and includes also all persons entitled whether under will or settlement or by way of dower to any annuity legacy or other money secured on any such estate or to the proceeds or any part of the proceeds thereof; and includes also all persons having a judgment registered in the Colony against any owner; and also mortgagees of and debenture holders in any limited company owning an estate.

“Loan” means the loan to be raised under the powers hereof.

“Advance” means the sum to be lent to an owner under the provisions hereof.

“Refund” means the sum to be refunded to the owner in respect of Immigration tax under the provisions of Section 8 hereof.

“Inspector” means an Inspector under the provisions of Section 4 hereof.

The Fund.

3. The Fund shall consist of all sums from time to time granted by the Imperial Government for the assistance and relief of the sugar industry in the Colony together with all sums provided by any loan to be raised as provided by Section 20 hereof or to be hereafter authorized, and shall also include all sums that may be received or realized on account of any advance or the interest thereof.

The Fund shall be administered by the Receiver-General, who shall pay on the warrant of the Governor and receive all moneys payable and receivable in accordance with the provisions hereof, and shall keep distinct accounts of the same.

Provided however that any such warrant may legally authorize continuing or successive payments or a class of payments, without distinguishing the particular persons or estates in respect of which any such payment is to be made, or specifying the exact sums to be paid from time to time to any person.

4. It shall be lawful for the Governor from time to time ^{Inspectors.} when he shall deem it expedient for the purposes hereof to appoint an Inspector or Inspectors who shall have power to visit any estate the owner whereof has applied for or received any assistance under the provisions hereof either by way of refund or advance.

Such Inspectors shall as may from time to time be directed, report to the Governor on the condition of such estates or any of them and generally whether the owners thereof are fulfilling or capable of fulfilling (as the case may be) the conditions of such assistance. The necessary expenses of such Inspectors and of all inspections or reports shall be paid out of General Revenue on the warrant of the Governor.

5. There shall be paid out of the fund

- (a.) A refund on account of Immigration tax on sugar ^{Payments} under the Immigration Fund Ordinances of the ^{out of fund.} amount and subject to the conditions hereinafter specified.
- (b.) Assistance to cane farmers to the extent and subject to the conditions hereinafter specified.
- (c.) Advances by way of loan to the proprietors of estates subject to the conditions as to repayment interest and otherwise hereinafter specified.

6. So far as possible the amount to be paid in refunds ^{Idem.} to owners and assistance to cane farmers shall equal the sums from time to time received by the Receiver-General from the Imperial Government for the assistance of the ^{How} Colony and the amount to be paid in advances shall be ^{proportioned.} defrayed from the loan in section 20 authorised.

Provided however that nothing herein contained shall be construed to confer on any person or persons any right to an account or to claim that any exact sum shall be distributed in any particular form or for any particular purpose; and that the fund shall be administered and deemed as a whole without distinction of the source from which the same or any part thereof has been derived.

Conditions
of aid.

7. It shall be deemed a condition of the granting of any Refund or Advance, that the Inspectors shall at all reasonable times have access to the estates in respect of which the same have been granted and to the books and accounts of such estates; and any obstruction of an Inspector or unreasonable refusal of such access shall be deemed a breach of such condition, and any unpaid instalment of any Refund or Advance may in such case be withheld by order of the Governor.

Payment of
refund.

8. The Refund shall be made in such instalments as the Governor shall from time to time direct. The first instalment shall be paid as soon as may be after the commencement hereof, and the subsequent instalments shall be paid at such intervals and in such amounts as may be directed, up to the 1st July, 1903. The total of the instalments shall be the amount of $13/6$ per ton of the average output of sugar for export from each estate; or (where several estates in one group are under the same proprietorship) from each group of estates.

Provided that in the event of the cultivation of any one or more estates in a group belonging to the same owner having been abandoned or being in course of abandonment, the sugar from such estate or estates shall not be reckoned in the ascertainment of the average output from any such group.

Determina-
tions of
amount.

9. The average output for each estate or group shall be determined by dividing by three the sum of the tonnage of the sugars exported therefrom during the years ending respectively on the 30th June 1900, 1901 and 1902, and appearing on the books of the estate or group; each estate or each collection of estates belonging to the same owner as the case may be, to be credited save as hereinbefore provided, with all sugars exported directly by the proprietor of such estate or estates, together with sugars the produce of such estate proved to have been exported by other persons.

Provided that in the event of its being shown that the proprietor of an estate not possessing a usine or factory has on his own account exported sugar manufactured from canes grown on his estate and returned to him in lieu of cash on

account of his canes by a factory, such proprietor shall be deemed entitled to assistance as a cane farmer in respect of the entire tonnage of canes proved to have been delivered by him, without the necessity of any certificate in the form provided by Section 14 hereof; but the owner of the factory at which such canes have been manufactured shall be the person entitled to refund of Immigration tax in respect of so much of such sugar as shall be shown to have been exported.

The assistance or bonus in such case shall not be paid by the factory owner but directly to the proprietor by the Receiver-General, on being satisfied as to the tonnage of canes delivered.

10. No refund shall be granted except on condition of the persons applying for the same undertaking during the crop 1902-3 to—

Obligations of
planters
receiving
refunds.

- (a.) Keep the estate in proper cultivation during the payment of the instalments thereof; and especially to plant in due course the average acreage (not being less than one-fifth of the land in cultivation) and to keep the estate properly cleaned in the ordinary course of husbandry, and to upkeep the machinery, plant and stock in a proper and efficient condition.
- (b.) Purchase canes in good condition from cane farmers if offered, at a fair market price, to the extent to which the same were purchased for the crop now last past.

11. No Refund shall be granted except on application by the owner containing an agreement to abide by the conditions in the last section specified, and each such application shall also contain a statement of the acreage of cultivation and of the tonnage of sugar exported from each estate or collection of estates (having regard to the provisions of Section 9 hereof) during the three years ending on the 30th June, 1900, 1901 and 1902 respectively, and of the amount of the tonnage of cane purchased from cane farmers for each such year. Each such application may be in the form No. 1 in the Schedule hereto.

Applications
for refunds.

Form I.

It shall be competent for the owner of any estate to send in his application on any day not later than 1st May 1903, and on such application being granted there shall be paid to such owner the amounts of all instalments or refunds payable before such date in accordance with the provisions hereof; but no application made later than the 10th day of August 1902, shall in any case be granted unless the Governor is satisfied that the person making the same has up to the date thereof duly observed the conditions in Section 10 specified, and has from time to time paid his cane farmers in accordance with the provisions of Sections 14 and 15 hereof.

Provided however that no owner shall except by order of the Governor be entitled to re-imburements of the amount paid by him to cane farmers until such application as aforesaid has been granted by the Governor.

Proviso in case of default in observing conditions.

12. No instalment of refund shall be claimable by any owner after default is made in the performance of any of the conditions in Section 10 specified. Provided however that the Governor may in his discretion, for sufficient reason permit any refund or such portion thereof as he may think fit to continue to be paid in the case of any owner in default, on being satisfied that such default has occurred inevitably or without any blame to such owner.

Default as to purchase of canes.

13. Conformity with Sub-section (b) of Section 10 hereof shall be exacted by the Governor as a condition of any further instalment of the Refund from time to time, and the Governor may on complaint being made to him that the farmers in any district or selling to any factory are not receiving fair market price, or that canes are not adequately purchased, direct such enquiry by Inspectors and such examination of accounts as to him shall seem fit, and decide according to the results of such enquiry and inspection.

Entries of bonus paid, &c.

14. Every owner in receipt of Refund shall from time to time make entries in his books shewing the names and addresses of the farmers delivering canes and the dates and amounts of such deliveries and the prices paid, and shall on each pay-day pay each cane farmer the price of the canes

purchased by him together with such bonus not exceeding 1/- per ton of canes delivered as may be fixed by the Governor.

Each person entitled to receive such payment shall on payment sign the book in which such payment is entered and if a marksman his signature shall be attested by the signature or initials of some person other than the person actually paying the money.

In the case of a factory the owner of which is not entitled under the provisions hereof to any Refund the cane farmers who shall supply such factory with canes during the year preceding the first of July 1903 shall nevertheless be entitled to the Refund of 1/- per ton of canes supplied to such factory during such period; and the mode in which the amount of such Refund shall in every case be ascertained and the payment thereof secured shall be as prescribed by the Governor by Regulation under Section 32 hereof.

Provided that for the purpose of ascertaining the amount of canes purchased by each such factory, the Governor may by Regulation authorize the Inspectors to exercise in respect of the examination of the books of any such factory the powers in Section 7 hereof contained, notwithstanding the fact that the owner thereof shall not be entitled to payment of any Refund under the provisions hereof; and the provisions in that behalf of Section 7 hereof shall for this purpose be deemed to apply to the owner of any sugar factory in the Colony.

15. The owner shall be entitled to be reimbursed all money paid or allowed by him by way of bonus on presentation (at the Office of the Receiver-General or a Sub-Receiver) of the book so signed or of a summary or abstracts thereof signed by the Manager of the estate and countersigned by an Inspector, and the amounts so reimbursed shall be debited to the Fund.

Reimbursement of bonus.

16. The amount to which each cane farmer is entitled including the bonus in Section 14 mentioned shall be subject to a lien for any advance made by the owner to such cane farmer during cultivation, and to any claim by any other person who has made any advance to such cane

Bonus, etc. to be subject to lien for advances.

farmer under the Cane Farmers Advances Ordinance No. 14 of 1902, according to their several respective priorities under the said Ordinance.

Requisites
to ensure
correctness of
certificate.

17. The cane farmer or person bringing the canes for delivery to any estate shall in answer to every enquiry of any person employed by the estate for the purpose correctly state his name and address and the name and address of the person to whom the canes belong; and any cane farmer or person employed by a cane farmer so giving a false or fictitious name shall be guilty of an offence against this Ordinance, punishable on summary conviction thereof, with imprisonment with or without hard labour not exceeding three months.

Disqualifica-
tion of farmer
giving false
description.

18. Any cane farmer who is found to have delivered or caused to be delivered canes in any false or fictitious name shall be disqualified from receiving any subsequent bonus or refund, in addition to any other punishment that he may have incurred for such offence.

Final account
of refunds.

19. An account shall be taken as on the date for the payment of the last instalment provided for by Section 8 hereof, of all amounts disbursed in payment of refunds and in bonuses to cane farmers in accordance with the provisions hereof; and it shall be lawful for the Governor to authorise by warrant the distribution of such further refund on account of Immigration tax to owners who have observed the several conditions on which refunds have been granted, as he may deem sufficient to exhaust as near as may be the amount granted by the Imperial Government; and the final account shall be laid before the Legislative Council. But no person shall be entitled to claim any account or to bring any action at law in respect of the said grant or any part thereof or any appropriation of the same. If on the taking of such account as in this section provided, it appears that the sum paid in Refunds to owners and by way of assistance to cane farmers has exceeded the amount granted by the Imperial Government, then it shall be lawful for the Governor to authorize the payment of any excess out of the Loan or out of general revenue, as he shall think fit.

20. The Governor may (in such sums as he may from time ^{Loan.} to time deem necessary) raise a Loan not exceeding in all £50,000 for the purposes of the Fund, to be applied subject as in the last section provided in making advances to owners in accordance with the provisions hereof. The provisions of Ordinance 28 of 1890, shall apply to any such loan.

The principal and interest of the Loan and each instalment of the repayment of the same if made repayable by instalments, shall be a charge on the general revenue of the Colony; but the Fund shall in the first place be the primary source of such repayment, and shall be expended accordingly.

21. The Governor may from time to time make from the ^{Advances.} Loan to any owner with the consent of all Encumbrancers such advance not exceeding in all in any case a sum equal to one-half of the proceeds of the sugar produced by such estate in the year 1902, as he may think fit, for the purpose of enabling the owner to keep his estate in cultivation and the stock and machinery in proper condition repair and efficiency.

22. No advance shall be granted except on application ^{Applications for advance.} by the owner stating the estate or estates in respect of which the advance is required, the acreage and average output of sugar from such estate, the names and addresses of all Encumbrancers thereon at the time of such application and the amounts of their respective charges and the circumstances under which it is necessary for the continued cultivation of the estate for such advance to be granted. Such application before being acceded to shall be supported by the written assents of such Encumbrancers or persons lawfully authorized by them, and in case the charges consist of debentures granted by a joint stock company, such assent may take the form of a minute of the resolution of debenture holders duly executed by a person lawfully empowered to sign the same on their behalf. Any application under this section may be in the form ^{Form II.} No. 2 in the Schedule hereto.

23. The following shall be the conditions of each such ^{Conditions of advance.} advance :—

- (a.) That the whole of the money advanced shall be expended in due course in the cultivation of the

estate charged and the upkeep and repair of the machinery and stock thereof.

- (b.) That the estate charged shall during the continuance of the security be sufficiently cultivated in due course of husbandry, especially with respect to the annual planting of canes in the proportion of not less than one quarter of the acreage of the estate under cultivation in each year.
- (c.) That interest shall be duly paid on the first of July in each year at the rate of 4 per cent. on the amount due from time to time in respect of the Advance, and that the principal sum advanced shall be repaid by seven equal yearly instalments commencing on the 1st of July, 1905.
- (d.) In the case of any owner who shall not be entitled to a refund under the provisions hereof, that until the 30th June 1903, he shall undertake to pay the prescribed bonus to cane farmers supplying such Estate in accordance with the provisions of Sections 14 and 15 hereof, in the same manner as if he were an owner entitled to refund, and in such case the application for and memorandum of advance shall be amended by the insertion of the necessary words to enforce this obligation.

Form III.

A memorandum of advance shall be in the form No. 3 in the Schedule hereto, and each such memorandum shall be executed by the owner and, as evidence of assent but not so as to involve any personal liability, by the Encumbrancers or their agents thereto lawfully authorized, and shall be registered in the office of the Registrar-General or entered in the register under the Real Property Ordinance 1895, as the case may be.

Stamp duty and fees.

24. No stamp duty shall be payable on any such memorandum of advance or on any power of attorney to execute the same, and the charge or fee for registering the same shall in no case exceed 10/-.

Effect of memorandum of advance.

25. Every memorandum of advance shall be deemed to be equivalent to a statutory mortgage of the estate under

the provisions of Ordinance 22 of 1884, to secure the repayment of such advance and interest thereon; and such repayment shall, subject as hereinafter provided with respect to moneys advanced by other persons with the assent of the Governor during the year 1902-3, be a charge on the estate in priority to the claims of all Encumbrancers thereon, and shall entitle the Governor by his proper officer to enter into possession on the occurrence of any default in repayment or breach of covenant. Each prescribed instalment of repayment of principal, and each payment of interest on the advance, shall also in each year during the subsistence of the security be a charge year by year on the product of the estate charged. And all such charges shall have priority over all liens and other charges except shipping and marketing expenses, and in addition to the power of entry on default, the charge of repayment of the whole and every instalment of such advance may be enforced by action at the suit of the Attorney-General on default being made in any of the conditions of repayment of principal or interest or of any other conditions as in Section 23 specified.

26. Any money actually lent by any person to the owner of such estate with the assent of the Governor, after the date hereof and before the 1st day of April, 1903, and actually expended for the necessary cultivation and upkeep of such estate, may be declared by the Governor to be entitled to equal priority, in proportion to its amount, on the security of the corpus of the estate, with any advance made hereunder.

27. No advance shall be granted unless the Governor is satisfied— Object of advance.

- (a.) That there is reason to believe that it will be used for the purpose of continued cultivation of the estate and manufacture of sugar.
- (b.) That the owner is not able otherwise to provide the sum necessary to enable him to continue his cultivation and manufacture until the 30th June 1903.
- (c.) That all Encumbrancers in respect of the estate have assented to the application and consent to execute the memorandum of advance.

(d.) That there is a good holding title to the estate, subject only to the charges due to Encumbrancers assenting to the application.

Insurance obligations.

28. The provisions of Section 21 Sub-section 2 of the Ordinance 22 of 1884 shall, as regards the security created by a memorandum of Advance, be deemed to apply to Insurance on produce as well as on the buildings and machinery of the estate.

Yearly and quarterly Accounts.

29. The Receiver-General shall on or before the 1st day of June in each year make out and submit to the Governor a statement of all sums annually or otherwise repayable by estates under this Ordinance, during the year commencing on the 1st day of July following, and shall send to each person by whom any such sum is payable a notice by registered letter through the Post stating the same. Provided that failure or omission to send such notice shall not relieve any debtor from the obligation to pay such sum at the time when it becomes due.

The Receiver-General shall also at the end of every quarter of the financial year forward to the Governor a statement showing the amount received into and paid out of the Treasury on account of the Fund during the quarter.

Powers of Governor.

30. The Governor may at his discretion do all or any of the following things, viz. :—

- (a.) He may authorise an Advance to any owner of land cultivated by him in cane although his estate does not comprise a factory or mill for the manufacture of sugar, on such special conditions as to the repayment of the principal and interest and otherwise as he shall think fit.
- (b.) He may grant an extension of time or times for the payment of any amounts due from any person in respect of any Advance.
- (c.) He may accept any compromise or composition or reference to arbitration.
- (d.) He may purchase or take over any property charged with any Advance.
- (e.) When any property so charged is put up for sale he may direct the Crown Solicitor or any other person to purchase such property, for any

price not exceeding the amount necessary to cover fully the claim of the Government, and for this purpose it shall not be necessary to obtain from any Court liberty to bid at such sale.

- (f.) He may sell, by public competition, on such terms and conditions as he may deem advisable, any property purchased by or which may revert to the Government in consequence of the non-payment of any advance or instalment thereof; and in the event of the upset price fixed by the Government not being offered at such public sale, he may sell or exchange any such property by private contract.
- (g.) He may let any such property from month to month or year to year or may grant a lease thereof for such period as may seem fit after tenders have been called for such lease, or it has been put up for sale by public competition.

31. The Fund shall be wound up so soon after the date fixed for the last repayment of capital on Advances, as the Governor in Executive Committee shall appoint, and thereupon all moneys remaining to the credit of the fund shall be transferred to the credit of General Revenue to a new account to be entitled Sugar Loan Fund account. And interest on and repayment of the Loan shall thenceforth be debited to such account.

Winding up of
the Fund.

32. The Governor in Executive Council may make regulations not inconsistent with the provisions hereof with respect to the manner and form of making, and the statements and information necessary to be made and given in support of applications for Refunds and Advances, and generally with respect to such matters and details as are not hereby provided for, in order to the administration of the Fund and the better carrying into effect the provisions of this Ordinance.

Power to issue
Regulations.

Passed in Council this fifteenth day of July in the year of Our Lord one thousand nine hundred and two.

HARRY L. KNAGGS,
For the Clerk of the Council.

 SCHEDULE.

FORM 1.

 APPLICATION FOR REFUND.

 THE SUGAR PLANTERS REFUND AND LOAN ORDINANCE, 1902.

Section 11.

I of owner of estate hereby apply to be admitted to participate in the refund of Immigration tax authorized by the above named Ordinance.

The following are the particulars of my application :—

Acreage of lands under cultivation in sugar acres.

Amount of sugars exported from above estate during the three years from June, 1899, to June last :

June 1899 to June 1900	tons.
„ 1900 „ 1901	„
„ 1901 „ 1902	„

Total

Average tons.

Tonnage of canes purchased from cane farmers :

1899-1900	tons.
1900-1901	„
1901-1902	„

I undertake in consideration of any refund granted to me on this application to be bound and abide by all the conditions in that behalf prescribed in the said Ordinance.

(Signed) *Owner (or by his attorney as the case may be).*

FORM 2.

 APPLICATION FOR ADVANCE.

I owner of estate (or of estates) known as hereby apply for an advance under the provisions of the Sugar Planters Refund and Loan Ordinance, 1902, on the security of the estate and crops of the said estate (or estates) as provided in and by the said Ordinance, and I undertake to observe and abide by the several conditions with respect to such advance and the security therefor prescribed by the said Ordinance.

Section 22.

