

11. 1939

No. 45 of 1938.

## In the Privy Council.

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### ON APPEAL

*FROM THE SUPREME COURT OF MAURITIUS.*

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BETWEEN

MRS. Ww. PAUL J. J. GUERARD (Suppliant) - *Appellant*

AND

THE COLONIAL GOVERNMENT OF MAURITIUS  
(Defendant) - - - - - *Respondent.*

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## Joint Appendix.

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Ordinance No. 14 of 1929.

### *AN ORDINANCE*

*Enacted by the Governor of Mauritius with the advice and consent of the Council of Government thereof.*

To empower the Colonial Government to raise a loan of Rs. 3,300,000 and to amend the Sugar Industry Loan Ordinance, 1929.

*I assent,*

H. J. READ,  
*Governor.*

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*19th July 1929.*

WHEREAS by the Sugar Industry Loan Ordinance, 1929, the Governor was empowered to borrow a sum not exceeding Rs. 3,300,000 by the issue of Treasury Bills under the provisions of the Treasury Bills Ordinance, 1924, repayable not later than six months from the date of issue with interest at the rate of five per cent. per annum for the purpose of assisting the Sugar Industry of the Colony ;

AND WHEREAS it is necessary to provide funds for the repayment of the aforesaid bills at maturity with all interests due thereon and to defray the expenses incidental to the administration of the Sugar Industry Loan Fund constituted under the aforesaid Ordinance ;

AND WHEREAS it is expedient to empower the Governor for and on behalf of the Colony to raise such amount upon debentures repayable in thirty years with the right to redeem all or any such debentures after twenty years ;

AND WHEREAS it is expedient to amend the Sugar Industry Loan Ordinance, 1929 ;

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BE IT THEREFORE ENACTED by the Governor, with the advice and consent of the Council of Government, as follows :—

Short Title.

1. This Ordinance may be cited as the Sugar Industry Loan (No. 3) Ordinance, 1929.

Issue of debentures for Rs. 3,300,000 and any further necessary amount.

2.—(1) It shall be lawful for the Governor for and on behalf of the Colony to raise upon debentures, as provided by this Ordinance, a loan of Rs. 3,300,000 and such further sum as may be necessary to repay the loan raised by Treasury Bills as enacted by article 3 of the Sugar Industry Loan Ordinance, 1929, with all interests due thereon, and to defray the expenses incidental to the administration of the Sugar Industry Loan Fund constituted under the aforesaid Ordinance. 20

(2) Such debentures shall be reimbursed in thirty years provided that it shall be lawful for the Governor after twenty years to order that all or such of them as shall be drawn by lot in such manner as the Governor in Executive Council shall determine be reimbursed on such day as the Governor shall fix and cause to be notified in the Gazette.

Issue of debentures.

3.—(1) Every debenture shall be for the sum of one hundred, five hundred, one thousand, five thousand or ten thousand rupees, payable to bearer or to any person in whose name the debenture has been issued and shall bear interest at a rate not exceeding five per cent. per annum payable half-yearly. Every debenture shall be secured upon the general revenues and assets of the Colony. 30

(2) Every debenture shall be signed on behalf of the Colony by the Receiver General.

Debentures to be numbered and registered.

4. Every debenture shall bear a printed consecutive number and, before being issued, shall be registered in Register Books to be kept for that purpose in the Office of the Receiver General.

5. To every debenture there shall be attached at the time of the issue thereof coupons for the payment of the interest to become due in each half-year upon the principal sum secured by the debenture.

6. It shall be lawful for the Receiver General upon the application of the holder of a debenture payable to bearer to register such debenture in the name of the holder in the books of the Receiver General by means of an entry to be made in a register kept for that purpose. Such entry shall state the nature of the application, its date, the name of the holder, and the number of the debenture. Each entry shall be signed by the holder and by the Receiver General or Assistant Receiver General, and mention of the debenture having been registered shall be inscribed on the back thereof and signed as above.

Conversion  
and transfers  
of debentures.

The debenture thus registered shall be transferable only by means of an assignment to be entered in a register and to be signed by the transferor and the transferee, or by the holders of their power of attorney, and by the Receiver General or Assistant Receiver General: mention of the transfer shall be endorsed on the debenture and signed as above, and the transferee shall thereby become entitled to receive the principal moneys and interest respectively, secured or represented by the debenture and the coupons attached thereto.

Provided that any debenture in a holder's name may be converted into a debenture payable to bearer. Such conversion shall be effected by means of an entry in the aforementioned manner.

7. Any debenture may be given in pledge in any civil and commercial transaction. Such pledging shall be sufficiently proved by a transfer inscribed in a register kept for that purpose by the Receiver General setting forth that the pledgee holds the said debenture not as the owner thereof but in pledge of a debt, the amount of which shall be shown; the said transfer shall be signed by the pledger and the pledgee or by the holders of their power of attorney, and by the Receiver General or Assistant Receiver General, and mention of such pledging shall be endorsed on the debenture.

Pledging of  
Debentures.

Such pledging shall, to all intents and purposes, be valid as regards the parties to the contract and all third parties, articles 2074 and 2075 of the Civil Code to the contrary notwithstanding.

8. The interest upon the principal moneys secured by each debenture shall commence at and from a day to be named in that behalf in the debenture and shall be paid in the Office of the Receiver General half-yearly on the days to be named in that behalf in the debenture.

Interest when  
and where  
payable.

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**Mrs. Ww. PAUL J. J. GUERARD**  
(Suppliant) *Appellant*  
**AND**  
**THE COLONIAL GOVERNMENT**  
**OF MAURITIUS** (Defendant) *Respondent.*

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**Joint Appendix.**

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**BURCHELLS,**  
5 The Sanctuary,  
Westminster, S.W.1,  
*Solicitors for the Respondent.*

5. To every debenture there shall be attached at the time of the issue thereof coupons for the payment of the interest to become due in each half-year upon the principal sum secured by the debenture.

6. It shall be lawful for the Receiver General upon the application of the holder of a debenture payable to bearer to register such debenture in the name of the holder in the books of the Receiver General by means of an entry to be made in a register kept for that purpose. Such entry shall state the nature of the application, its date, the name of the holder, and the number of the debenture. Each entry shall be signed by the holder and by the Receiver General or Assistant Receiver General, and mention of the debenture having been registered shall be inscribed on the back thereof and signed as above.

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Interest when  
and where  
payable.

Principal moneys to be paid with interest on day appointed.

9. On the day fixed for the repayment of the debentures or of such of them as may have been drawn by lot as hereinbefore enacted, the Receiver General shall, on demand, pay to the holders of the debentures the principal moneys secured by the debentures with all interest due or payable thereon up to that day.

All interest due to cease from that day.

10. From and after the day fixed as aforesaid for the repayment of the debentures, all interest on the principal moneys secured by the debentures shall cease and determine whether payment of the principal shall have been demanded or not.

Debentures paid to be cancelled.

11. Upon payment of the principal moneys secured by any debenture, 10 such debenture with all the coupons thereto belonging shall be delivered to the Receiver General forthwith who shall cancel the same.

Replacement of defaced debenture.

12. In case any debenture issued under this Ordinance is by accident defaced, it shall be lawful for the Governor to cause a new debenture to be made and delivered to the bearer and cause the defaced debenture to be cancelled.

The new debenture shall bear the same interest and be subject to the same rules as the original debenture.

Replacement of lost or destroyed debenture or payment thereof if overdue.

13. The Governor, on proof to his satisfaction that any debenture issued under this Ordinance has by accident been lost or destroyed before 20 the same has been paid off, may, if the number and amount of such debenture are ascertained, and on due security being given, to his satisfaction, for indemnifying the Colonial Government for any loss to which the said Government may at any time be subjected by reason thereof, issue a new debenture corresponding in all respects with the debenture so lost or destroyed; or, if any debenture when so lost or destroyed is overdue, the Governor may cause the money due thereupon to be paid off and discharged on security being given as above.

Debentures and transfers thereof exempted from stamp duty, etc.

14. The debentures and all transfers thereof shall not be subject to any stamp duty and the sums lent under this Ordinance shall not be 30 liable to the provisions of article 61 of the Licences (Consolidating) Ordinance, 1915, as repealed and replaced by article 9 of the Licences (Amendment) Ordinance, 1918.

Sinking Fund to be invested.

15. From the date of issue of the debentures, contributions to a Sinking Fund shall be made out of the general revenues and assets of the Colony. Such contributions shall be remitted to the Crown Agents to be invested in the names of trustees to be appointed by the Secretary of State. The trustees shall also invest the dividends, interests or proceeds arising from such investment, so that the same may accumulate by way of compound interest and be applied towards the final extinction of the debt. 40

16. All sums paid to the account of such Sinking Fund and the interest thereon shall be invested in such securities as may be approved by the Secretary of State.

Securities in which Sinking Fund is to be invested.

17. In case the Sinking Fund shall be insufficient to provide the necessary funds for the redemption of the debentures when they shall have become due, the deficiency shall be made good out of the general revenues and assets of the Colony.

Any deficiency in Sinking Fund to be made good out of general revenues and assets.

18. The decision of the Loan Committee reducing by five per cent. the amount of any loan granted or which may hereafter be granted to 10 sugar factory owners and sugar cane planters under the provisions of the Sugar Industry Loan Ordinance, 1929, is hereby declared to have been valid and effectual for all intents and purposes as though in articles 9 and 10 of the aforesaid Ordinance, in lieu of the figures and words " R. 1.25 per 50 kilogrammes of sugar " there were the figures and words " Rs. 23.75 per metric ton of sugar."

Reduction of amount of Loans by Loan Committee to be valid.

19. The payment of any loan by the Loan Committee under the Sugar Industry Loan Ordinance, 1929, shall be a sufficient discharge of all claims by any person whatsoever against the Committee in respect of any payment so made without prejudice to the right of any person 20 claiming to be legally entitled to recover the same from the person to whom such amount has been paid or from any person claiming under or through him.

Bar of action against the Loan Committee in respect of payments made.

Passed in Council at Port Louis, Island of Mauritius, this sixteenth day of July one thousand nine hundred and twenty-nine.

E. JULLIENNE,  
Clerk of the Council of Government.

Published by order of His Excellency the Governor this nineteenth day of July one thousand nine hundred and twenty-nine.

A. GRANNUM,  
Colonial Secretary.

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