

ORDINANCE NO. 4 OF 1904.\*



## AN ORDINANCE

*Enacted by the Officer Administering the Government of Mauritius and its Dependencies with the advice and consent of the Council of Government thereof.*

**To provide for the government of and the administration of Justice in the Lesser Dependencies.**

*I reserve this Ordinance for the signification of His Majesty's pleasure thereon.*

GRAHAM BOWER,

Officer Administering the Government.

18th. April, 1904.

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

Short Title. 1. This Ordinance may be cited as "The Lesser Dependencies Ordinance, 1904."

Definitions. 2. In this Ordinance:

"Owner" includes lessee.

"Islands" means the Lesser Dependencies mentioned in Schedule A, or any one of them.

"The Magistrate", or "a Magistrate", means any one of the District and Stipendiary Magistrates for the Lesser Dependencies appointed under this Ordinance.

\* This Ordinance was put in force by Proclamation No. 30, dated the 7th May 1904.

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and includes an Additional Magistrate appointed under Article 3 (3).

"Servant" "Master" and "Employer" have the meanings attached to them by the Labour Law, 1878.

Appointment of Magistrates. 3. (1) It shall be lawful for the Governor, subject to the approval of the Secretary of State, to appoint two fit and proper persons to be District and Stipendiary Magistrates for the Lesser Dependencies mentioned in Schedule A.

(2) Each of the said Magistrates shall act independently of the other, and shall have the rights, duties, powers and jurisdiction defined by this Ordinance.

(3) It shall further be lawful for the Governor when necessity arises to issue a commission to any other fit or proper person to act as Additional Magistrate for the Lesser Dependencies, and such Magistrate shall, in virtue of such commission and during its continuance, have all the powers of a Magistrate for the Lesser Dependencies.

Visits of Magistrates to Islands. 4. (1) The Magistrates shall visit the Islands at such times as they shall be directed by the Procureur General, and shall administer justice therein between the Crown, private individuals, and masters and servants as defined by the Labour Law, 1878.

Provided that so far as may be possible each Island shall be visited at least once in every twelve months: and if any Island has not been visited for a period of twelve months it shall be visited on the first opportunity in the ensuing twelve months.

(2) The Magistrates shall further have power to visit and inspect all the Establishments on the Islands, and all camps and houses (other than private dwelling

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houses) thereon, to inspect the books of the Establishment and of the shops, and to test the weights and measures used in such shops.

(3) They shall respectively report to the Governor the result of each visit and of the inspections made, and generally on all matters connected with the well-being of the Islands and the welfare of the inhabitants. There shall also be included in such report a return of all decisions given, and action taken, in all matters brought before them or which have come under their notice.

*Salary of Magistrate.* 5. The salary of each of the Magistrates shall be 6,000 Rupees which shall be paid by the Treasury. The said salary shall cover all expenses and allowances hitherto allowed, to which the Magistrates shall henceforth have no further claim.

Provided that any Magistrate appointed under Article 3 (3) shall be entitled to an allowance for expenses of 5 Rupees a day during his absence from Mauritius, which allowance shall be paid by the Treasury.

*Contribution to cost of administration by owners.* 6. (1) The owners of the Islands shall contribute to the cost of administration of the Islands the sum of 12,000 Rupees in two half-yearly instalments, payable in the manner hereinafter provided, on or before the 31st. January and 31st. July in every year.

(2) The said contribution shall be apportioned between the owners of the Islands, according to the number of labourers employed by each of them, and the sum due by each owner shall be paid into the Treasury on or before the dates above-mentioned. For the purpose of such apportionment, each of the owners shall furnish the Receiver General with a statement of the said number of men so employed on the 30th. June and 31st. December in each year. The statement may be controlled by the Ma-



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gistrate, and any owner making a false statement shall be liable to a fine not exceeding 1,000 Rupees.

(3) For the recovery of the said amount due from each owner the Government shall have a privilege, and the extent and conditions of such privilege shall be governed by Ordinance No. 18 of 1843, and shall be assimilated to the land tax mentioned in Article 31 of that Ordinance.

(4) When it is necessary for the purpose of any criminal trial or other proceeding in Mauritius that any persons should come to Mauritius as witnesses, or be brought to Mauritius as prisoners, the passage of such persons shall be provided free of cost on the vessels belonging to, or chartered or employed by, the owner of the Island on which the acts occurred out of which such trial or proceeding arises, and in their ordinary voyages. The cost of feeding to be refunded to the owners.

Free passage of  
Magistrate.

7. (1) Any Magistrate who is about to visit one of the Islands shall be provided by the owners with free passage and maintenance to and from such Island on board any vessel belonging to, or chartered or employed by, the owner of such Island, and to maintenance while on such Island.

(2) Vessels going to and from the Islands shall carry mails free on behalf of the Post Office.

Jurisdiction of  
Magistrate.

8. (1) The Magistrate shall be vested with the power and authority of District and Stipendiary Magistrates respectively in Mauritius, subject only to the modifications hereinafter enacted.

(2) A Court shall be held in such convenient room or place in the Island, and on such days and at such hours as the Magistrate shall determine.

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(3) The Magistrate shall have power, in any case or matter, to appoint and swear in such person as he deems fit to act as interpreter.

Engagement of servants. 9. All servants, other than artisans, proceeding to the Islands for employment shall previously enter into a written contract of service passed as follows:—

(i) If in Mauritius, then before a Magistrate, or before the Stipendiary Magistrate of Port Louis.

(ii) If in the Islands, then before a Magistrate.

Provided that in either case the Magistrate shall be satisfied that such servant is free to enter into such contract.

(iii) If in Seychelles, then before any officer of Seychelles authorised by the laws of Seychelles to pass such contracts.

Provided that the conditions and forms of such contracts, and the powers of the officer aforesaid in respect to passing them, are in all respects identical with the conditions and forms of the contracts, and the powers of the Magistrate passing such contracts, as determined by this Ordinance.

Provided further that when any person on the Islands desires to enter into a written contract of service, such contract may be passed in the Island before the Magistrate, and shall be in the same form and subject to the same conditions as the contract herein provided.

Duration of service. 10. (1) Written contracts of service shall be in the form of Schedule B (which may be amended by the Regulations), and shall not exceed three years; in the case of contracts entered into by members of the same family, they shall all expire at the

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same time : the word " family " in this Article shall include husbands, wives and children. Certified copies of all contracts shall be sent to the Manager.

(2) In all contracts the nature of the work for which the servant is engaged shall be specified, but where the nature of the work is general and not capable of express specification the Magistrate may, in passing the contract, describe such work as " general ".

(3) In case any Island be sold, alienated or transferred to another person, or succeeded to by another person, before the termination of the contracts of service entered into with the servants engaged on the Island, such servants shall serve such other person according to the terms of the contract, and such new employer or master shall be held bound towards the said servants in all the stipulations and obligations incumbent upon the employer or master so replaced by him.

(4) The Magistrate before whom such contracts are passed in Mauritius or in the Islands shall have the powers vested in Stipendiary Magistrates by Article 100 and 101 of the Labour Law, 1878.

(5) The provisions of Article 102 of the Labour Law, 1878, shall apply to fictitious contracts.

11. (1) Written contracts of service for whatever period they may be entered into shall continue in force from the day of their termination until the question of their renewal has been submitted to the Magistrate.

(2) At the expiry of any written contract of service as provided in the preceding paragraph it shall be optional for the servant and owner to renew the engagement either by written or verbal contract : provided that in the case of verbal contracts notice of such contract shall be



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given to the Magistrate by the Manager, and that the Magistrate is satisfied that the contract has been entered into.

Free passage of  
servants and children. 12. Servants under written contract who proceed to the Islands shall have a right for themselves and their wives and minor children, who shall proceed in the same ship, to free passage and subsistence to and from Mauritius or Seychelles, as the case may be.

Contracts with  
minors. 13. Contracts with minors shall be subject to the conditions prescribed in Article 99 of the Labour Law, 1878, except the fifth paragraph.

A sufficiency of  
rations to be kept on  
the Islands. 14. Every contract of engagement as aforesaid shall stipulate that there shall be a sufficient supply of rations on the Island on which the labourers are to be employed to meet every contingency, which supply shall always be equal to the average consumption on the Island during four months.

No contract of service shall be passed for the employment of labourers in the Islands, unless the Magistrate is satisfied that arrangements have been made to secure the provisions of the preceding clause being strictly carried out; and any failure to comply with the terms of any contract as regards this provision shall render the owner liable to a fine not exceeding 1,000 Rupees.

Servants not pro-  
ceeding to Island  
after written con-  
tract. 15. (1) Any servant who, after entering into a written contract of service, or any artisan who after entering into any contract of service, shall, without sufficient excuse, decline or neglect to proceed in the vessel provided to take him to the Island in which he has contracted to work shall be liable to be arrested.

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(2) For this purpose a warrant shall be issued by the Magistrate or the Stipendiary Magistrate of Port Louis on the application of the master or his agent.

(3) The punishment shall be imprisonment not exceeding three months to be awarded by the Magistrate, or in his absence by the Stipendiary Magistrate of Port Louis, who may further give judgment in respect of any advances made or alleged to have been made to such servant or artisan.

(4) Such sentence shall operate as a discharge from the contract whether written or verbal.

Undue detention  
on Islands.

16. The undue detention on the Island of any servant beyond the termination of his contract, or not providing means of return to any servant entitled thereto, by the ship next proceeding to Mauritius or Seychelles, as the case may be, shall be punishable by a fine not exceeding 500 Rupees, without prejudice to any action in damages in respect of such detention.

In case of undue detention, it shall be lawful for the Supreme Court, on motion by the "Ministère Public", to order the owners to take such measures for terminating such detention within such time as to the Court may seem fit and proper.

Obligation and  
penalties of Labour  
Law imposed.

17. Where not otherwise provided, masters and servants under this Ordinance shall be subject to all the duties and obligations imposed upon masters and servants respectively by the Labour Law, 1878, and, for any breach thereof, the Magistrate shall impose the penalties therein prescribed.

Power to annul  
engagement and  
send servant home.

18. If in virtue of the Labour Law the Magistrate shall annul the contract, he

eg. s. 1699 // -  
Labour Law, 1878  
Mag. to annul for non-  
payment of wages



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shall send the servant back by the first ship, to Seychelles, if the servant has been engaged in Seychelles, to Mauritius if the servant has been engaged in Mauritius, on the Islands, or elsewhere. The cost of such return passage shall, unless the Magistrate otherwise order, be paid by the employer.

Judgment of Magistrate to be final.

19. All judgments of the Magistrate given in the said Islands shall be definitive and final to all intents and purposes except as herein provided; and no proceeding shall be commenced having for object to quash, set aside, modify, or challenge in any way whatsoever such order, judgment or conviction, except upon an *ex parte* order of a Judge in Chambers that a question of law is involved in the issue, which deserves and requires to be considered by a higher tribunal, and in no case shall such order be issued until the amount of the fines, or the sum or sums ordered to be paid, have been deposited in the Registry of the Supreme Court.

Imprisonment on the Islands or in Mauritius.

20. Any warrant issued by the Magistrate for the imprisonment of any person may be executed in the prison in the Island, or by the removal of the said person from the Island on board ship to the civil prisons in Mauritius, and by his detention therein as the Magistrate shall direct.

Jurisdiction may be exercised in Mauritius.

21. If in any case arising in the Islands, it is necessary to exercise jurisdiction in Mauritius, for the purpose of either (a) determining any civil dispute between parties: or (b) determining any dispute between master and servants: or (c) holding any preliminary enquiry: or (d) trying any person charged with an offence, the Magistrate may exercise such jurisdiction, or if neither of the Magistrates is in Mauritius, or if there be no such Magistrate, or if the Magistrate who may be in Mauritius is incapacitated from acting, then such jurisdiction shall be exercised by one of the District

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Magistrates of Port Louis, in civil and criminal actions, and by the Stipendiary Magistrate of Port Louis, in stipendiary matters.

The Magistrate, when exercising any jurisdiction under this or any other Article, in Port Louis, shall hold his Court in the Stipendiary Court of Port Louis or in such other place as the Governor may appoint, and he shall have for the purpose of exercising this jurisdiction all the powers of a District or Stipendiary Magistrate acting as such in Mauritius, as the case may be.

Attendance of witnesses in Mauritius.

22. The Magistrate shall have power to make all orders, and to take all necessary measures to secure the attendance before the Supreme Court of Mauritius of all the witnesses on any Island who are required to be heard against or in favour of any offender committed by him for trial.

Magistrate may take evidence *de bene esse*.

23. (1) The Magistrate shall have power to summon before him, and to take the evidence on oath of any person in the Islands whenever such evidence is required in any case pending before any Court in Mauritius or Seychelles, and such evidence taken *ex proprio motu* in cases of which he may take cognisance, or, in other cases, on the request of any Judge or Magistrate before whom such case is pending, shall be held to be evidence taken *de bene esse*.

(2) The Magistrate shall have the same power acting *ex proprio motu*, with regard to evidence required in any case within his jurisdiction, and he shall have power whenever he deems it expedient to try such cases partly in Mauritius and partly in the Islands.

Magistrate to perform duties of clerk.

24. (1) The Magistrate is empowered to perform within the said Islands the duties performed by a District or a Stipendiary Clerk in Mauritius.



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(2) When the Magistrate exercises any jurisdiction under this Ordinance in Mauritius, it shall be lawful for the Governor to depute any District or Stipendiary Clerk to act as such in the Court in which the Magistrate holds his sitting.

Register of judgments, &c. 25. The Magistrate shall keep a register in which shall be entered a note of all orders, judgments and executions and of all other proceedings by him given, issued or taken; and the entry in such register, or a true copy thereof signed by the Magistrate, shall at all times be admitted as evidence of such entries and of the proceedings referred to in such entry and of the regularity of such proceedings without further proof.

Execution of judgments. 26. It shall be the duty of the District Clerk of Port Louis, whenever fines inflicted or monies ordered to be paid by the Magistrate aforesaid have not been received or paid in the said Dependencies to issue a warrant of execution under the seal of the District Court, for the execution in this Colony or in the Dependencies of the order, judgment, or conviction left unexecuted, and such warrant shall issue on the production to such District Clerk of a copy certified by the Magistrate to be a true copy of the original entry in the register aforesaid of the order, judgment or conviction.

Accommodation for labourers. 27. In all the Islands the proprietors shall be bound to furnish their labourers with good and sufficient lodging, having sufficient air-space to afford four hundred cubic feet of air for each adult and child above ten years of age, and two hundred and fifty cubic feet for each child under ten years of age, with a floor-space of at least 10 feet by 5 for each adult and child above ten years of age, and half that amount for each child under ten years of age.

The Manager shall be bound to see that the camp is kept clean and in good order.



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Register of camps  
to be kept. A register shall be kept of the houses and huts in the camp by the Manager, showing their dimensions and number of persons inhabiting them.

List of task-work  
to be posted up. 28. A list of the task-work shall be drawn up by the Manager and posted up in the place where the rations are issued on the Islands, and a copy kept at the office of the owners or owners' agents in Mauritius, who shall produce the same before the Stipendiary Magistrate before whom the labourers are engaged. In this list the nature and duration of the *corvée* required from the labourers shall be specified.

"Corvée" and  
"field labour." "Corvée" and "field labour" shall be subject to the provisions of Articles 111 and 112 of the Labour Law, 1878.

Hospital to be  
provided. 29. (1) A hospital shall be constructed on each Establishment which shall be in charge of the Manager who shall employ a competent warder paid by the owners.

The hospital shall contain at all times accommodation and beds or other sleeping places for at least the following proportion of servants; namely, 10/100 on the number of servants engaged at the time: provided that in no case shall the hospital contain beds or sleeping places for fewer than four servants.

The hospital shall be constructed so as to contain one thousand cubic feet per bed, and to afford a floor-space of 12 feet by 6 feet for each bed.

(2) Separate accommodation in the hospital shall be provided for women on the Island; one quarter of the number of beds as above provided being set apart for that purpose.

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Power of imprisonment by Manager.

30. (1) In order to secure order and the proper and peaceful behaviour of the labourers in camps, it shall be lawful for the Manager of any of the Islands to imprison for a period not exceeding six days labourers who are guilty of insolence and insubordination. He shall also have the power to detain those who are disturbing or threatening to disturb the public peace, until the danger of disturbance is over.

(2) For the purposes mentioned in the preceding paragraph, a proper prison shall be provided on such Establishment of such dimensions as to afford four hundred cubic feet of air-space and 10 feet by 5 of floor-space for each person confined therein. In this prison there shall be a separate room for the women.

Power of fining by Manager.

31. In cases of petty praedial larcenies the Manager shall have power to inflict a fine not exceeding 10 Rupees.

Record of each imprisonment to be kept.

32. The Manager shall be bound to record in a book each case of fine or imprisonment with the causes and circumstances thereof, which shall be submitted to the Magistrate on his next visit. The Magistrate shall have power to remit or approve such fines, and to approve the imprisonment. If he is of opinion that the imprisonment was not justified, he shall have power to award compensation to the labourers.

Nothing herein contained shall in any way interfere with the power of the Procureur General to prosecute criminally in case of need.

Penalty for breach of Regulations.

33. Any breach of this Ordinance not otherwise provided for shall be punished by a fine not exceeding 100 Rupees, and the Magistrate may also pronounce the cancellation of the engagement



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of the labourer to the prejudice of whom such breach has been committed.

Manager to be agent of owners. 34. In all matters in connection with the engagement, and in all judicial proceedings arising thereunder, the Manager shall be held to be the agent of the owners, and such owners may sue and be sued through such agent.

Civil Status registers. 35. (1) Subject to the provisions of Article 7 of Ordinance No. 26 of 1890, the Civil Status Officers in each Island shall keep all Civil Status registers in duplicate, in such manner as may be provided by the Registrar General. One of the duplicates shall be forwarded to the Registrar General after examination by the Magistrate as hereinafter provided.

(2) The Magistrate shall, on each visit to any Island, examine, inspect and verify the said Registers, making a note of such examination in the margin of each act and report thereon to the Registrar General. He shall further have power, *ex proprio motu*, to order the rectification, amendment or annulment of any act, reporting his action in any case to the "Ministère Public", who shall have power to refer the matter for subsequent order to the Supreme Court.

(3) The Magistrate shall on his next visit to every Island examine the entries in the existing registers made since the coming into force of the Civil Status Ordinance, 1890, reporting thereon to the Registrar General, after taking such action as he is empowered to take by paragraph (2) of this Article as the circumstances of each case may require.

Legal assistance to servants by Protector. 36. The powers vested in the Protector of Immigrants with regard to servants and Immigrants in Mauritius by Articles 22, 23 and 24 of the Labour Law, 1878, shall be exercised



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by the "Ministère Public" with regard to all servants in the Islands.

Power of Govern- 37. The powers given to the Governor  
or. in Executive Council under Article 284  
of the Labour Law, 1878 shall apply *mutatis mutandis*  
to the Islands.

Medical inspection. 38. The Governor shall have power to  
order the inspection by a duly qualified  
medical man of any one or more of the Lesser Depen-  
dencies, and such Medical Inspector shall be entitled to a  
free passage to the Island to be inspected and his sub-  
sistence while on duty there.

Duty of Collector 39. It shall be the duty of the Collector  
to withhold clear- of Customs before giving clearance to any  
ance, when. vessel bound for the Islands, in addition  
to any duties in respect of clearance imposed by the  
Merchant Shipping Act, 1894, to ascertain whether the  
labourers on board other than artizans are all under writ-  
ten contract: and to refuse clearance until the fact is es-  
tablished to his satisfaction.

Power to make 40. The Governor in Executive Council  
Regulations. shall have power to make Regulations,  
which shall be laid on the Table of the Council, with re-  
spect to:—

i. the employment of labourers on the Islands or in  
any one of them, their rates of pay, rations, tasks, hours  
of labour, hospital treatment, supply of medicines, pass-  
ages to and from the Islands;

ii. the general conduct of the shops on the Islands,  
and the weights and measures to be used therein;

iii. the prevention and removal of nuisances and all  
matters relating to the public health, and such measures

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as may be necessary to facilitate the sanitary administration of the Islands: and to impose penalties for any breach thereof not exceeding 1,000 Rupees.

Extension of District Court Ordinances.

41. The District Court Ordinances; namely, Ordinances Nos. 21, 22 and 23 of 1888, and all Ordinances amending the same, are extended to the Islands in so far as they may be applicable, or have not been modified by the provisions of this Ordinance, and the Governor in Executive Council shall have power to make Regulations which shall be laid on the table of the Council, analogous to the Rules of Court, for the purpose of regulating the procedure under the said Ordinances.

Repeal.

42. The following enactments are repealed:—

Ordinance No.	5	of 1872.
"	No.	41 of 1875.
"	No.	62 of 1898-99.
"	No.	3 of 1901.

Government Notice No. 124 of 1877, and so much of Ordinance No. 11 of 1870 as remains unrepealed.

Passed in Council at Port Louis, Island of Mauritius,  
this twenty-ninth day of March, One thousand nine hundred and four.

LÉON KÖENIG,

Clerk of the Council  
of Government.



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## SCHEDULES.

## A.

*Dependencies to which this Ordinance applies.*

Diégo Garcia,  
Six Islands,  
Péros Banhos,  
Coativy,  
Salomon Islands,  
Agaléga,

St. Brandon Group, otherwise  
 called Cargados Carayos,  
 Juan-de-Nova or Farquhar  
 Islands,  
 Trois Frères, including Dan-  
 ger Island and Eagle Island.

## B.

*General Form of Contract of Service.*

Be it remembered that on this       day of       190 ,  
 of       Island and the labourers named on the list  
 hereto subjoined, appeared before me,       Magistrate,  
 and in my presence signed their names or made their marks to  
 the following contract of service.

The said       agree to hire the services of the said  
 labourers and the said labourers agree to render to the said  
 their services on the Island known by the name of  
 in the capacity of       for       calendar months  
 commencing on the       day of       in the year one thou-  
 sand nine hundred and       ; the said contract nevertheless is  
 to continue in force after the termination thereof, until the ques-  
 tion of its renewal has been submitted to the Magistrate.

And it is further agreed that the said       shall pay to  
 the said labourers the wages mentioned opposite to their re-  
 spective names in the list hereto subjoined, and that such wages  
 shall be paid monthly.

And it is also agreed that the services of the said labourers  
 shall be further remunerated by the delivery to them of the  
 various articles hereunder specified, viz :—

Rice	...	...	...	5½ kilos per week.
Salt	...	...	...	2½ oz. do.

Proper lodging and nursing of the sick shall be provided by  
 the said       to the said labourers.

And it is further agreed that if the said       shall at  
 any time employ the said labourers on any Island or place other  
 than that which is known by the name of       ,  
 except with the consent of the said labourers given in the pre-  
 sence of the Magistrate of the Islands (or as the case may be\*)

\* Here insert the Magistrate having jurisdiction to pass contracts under this  
 Ordinance.



then this present contract of service may, on the complaint of the labourer improperly employed as aforesaid, be cancelled by the Magistrate for the Islands (or as the case may be).

And it is further agreed that if the above-mentioned Island be sold, alienated, or transferred to another person, or succeeded to by another person, before the expiration of this present contract, the said labourers shall serve such other person according to the terms of this contract, such new employer or master being held bound towards the said labourers in all the stipulations and obligations incumbent upon the employer or master so replaced by him.

[illegible]