The following are the judgments cited by Pereira J.:—

RYAN *v.* WEERAPPAN.

September 12, 1906. MIDDLETON J.—

This is an appeal, with the sanction of the Attorney-General, against the acquittal of a kangany on an estate on a charge of neglecting to attend at and during the time or hours for commencing or carrying on the work of an agricultural labourer. The facts of the case are that the kangany was on the check roll, and apparently had received rice advances in 1904; that he was sent to India, and returned to the estate with some coolies about May 17 or 20 this year; that apparently there was then some dispute about the coolies which he had brought; and that apparently as the result of the dispute the accused gave notice to quit service for himself and the other coolies. Upon receipt of this notice, the superintendent of the estate sent for the accused and asked him to go to cooly work. The superintendent, in his cross-examination, says: "I asked accused for the first time to do cooly work on May 26. After I received notice accused did not come to work. Accused did not ask for kangany work. I asked accused to do cooly work." It is difficult not to draw the inference that this man was ordered to do cooly work because he had sent notice to the Superintendent to withdraw his labourers. The question, however, really is, to my mind, what was the contract between the parties—was this man bound to act and work as a cooly? It is clear that he had never worked as a cooly before on the estate, and had never been asked to do so. In my opinion, the judgment of Bonser C.J. in *Maclean v. Appau Kangany* (2 *N. L. R. 54*) is exactly in point. The Ordinance No. 11 of 1865 is a special Ordinance passed for the control of labourers in this Colony, and it makes acts offences which in Western countries are not offences; and therefore, "although" (adopting the words of Chief Justice Bonser) "I do not wish to say anything which would encourage agricultural labourers to disobey the orders of the superintendent, yet, at the same time, whenever a man is prosecuted for a criminal offence, it must be shown that he had a criminal intent—that his disobedience was wilful, and not due to an

[1] (*1896*) *2 N. L. R. 54.*

[2] (*11,091—P. C. Badulla-Haldummulla*) *S. C. Min., Aug. 7, 1902.*

erroneous view of his rights and duties. It seems to me, here, that the accused might have been justified in believing, from the previous course of business on the estate, that it was not part of his duty to perform manual labour. . . . . ."

Taking this view of the case, I am unable to accede to the application of the complainant in this case to set aside the order of acquittal which has been entered by the Magistrate. I therefore dismiss the appeal.