



WESTERN AUSTRALIA.

ANNO SEXTO

VICTORIÆ REGINÆ.

No. V.

**An Act to provide a summary remedy in
certain cases of Breach of Contract.**

WHEREAS it is expedient that a more simple remedy should be ^{Preamble.} provided in certain cases of Breach of Contract than is afforded by the existing laws of this Colony; and whereas it frequently happens that persons contract for the performance of work within a certain time, or at a certain price, and do leave their respective services or engagements before the terms of their contracts are fulfilled,

Punishment of artificers,
&c., for breach of con-
tract.

to the great disappointment and injury of the persons with whom they so contract: Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that, from and after the passing of this Act, if any artificer, manufacturer, journeyman, workman, labourer, or other servant, employed in any manner howsoever, either as a menial or house-servant, or in any other capacity, or who shall have been hired or engaged by, or with any master, or mistress, or employer, or employers, for any time, or term whatsoever, shall, during any part of such time for which he, or she, shall have been so hired or engaged, absent himself, or herself, from the lawful and usual service of the person, or persons, to whom he, or she, shall be so engaged as aforesaid, or shall refuse, or neglect, to work in the trade, calling, or employment, for which he or she shall have been so hired or engaged, in a diligent and careful manner, after having been thereunto required by his or her master, mistress, employer or employers as aforesaid, or shall return his or her work, or desert or quit the same before the same shall be completely finished, without the consent of the person or persons by whom he or she shall have been so employed, or shall he guilty of any other misconduct; it shall and may be lawful for any one Justice, upon complaint in such case made, to cause such party so offending to be brought before any two or more Justices of the Peace, by whom such complaint may be heard and determined, and upon conviction thereof to commit the party so offending as aforesaid to the common gaol for any term not exceeding three calendar months, there to remain and be kept to hard labor, and every person convicted of so offending as aforesaid, shall moreover forfeit all, or such part of his, or her, wages, or pay, which shall or may be due or owing to him, or her, from and by the party complaining at the time of such conviction, as in the discretion of such Justices shall appear reasonable.

Remedy against splitters,
fencers, &c., for breach of
contract.

II. AND be it enacted, that if any artificer, splitter, fencer, well-sinker, or person engaged in mowing, reaping, or getting in of hay, or corn, shepherd, or other labourer, who shall contract for the performance of any work in a certain time, or at a certain price, shall absent himself from his service before the termination or completion of his contract, it shall and may be lawful for any Justice of the Peace, upon complaint thereof made upon oath to him by the employer of such person, or by his or her overseer, to issue his warrant for the apprehending and bringing such person before any two or more Justices of the Peace, and if it shall appear to such Justices that such person shall

not have fulfilled such contract, it shall and may be lawful for such Justices to commit such person to the common gaol, there to be kept to hard labor, for any time not exceeding three calendar months.

III. AND be it enacted, that it shall and may be lawful for any one Justice of the Peace, upon any complaint or application upon oath of any such artificer, manufacturer, journeyman, workman, laborer, menial, house or other servant, hired for any time or term whatsoever, against any such master, mistress, or employer, touching or concerning any misusage, refusal of necessary provision, non-payment of wages, cruelty, or other ill-treatment whatsoever, of, or towards, any such artificer, manufacturer, journeyman, workman, laborer, menial, house, or other servant, to summon any such master, mistress, or employer, to appear before any two or more Justices at a reasonable time to be named in such summons; and such Justices shall or may examine into the matter of such complaint (whether such master, mistress, or employer shall appear or not), and upon proof thereof upon oath made to their satisfaction (whether such master, mistress, or employer be present or not, if service of the summons be also upon oath proved) may order the payment of such wages as to the Justices shall then appear to be due or owing to any such person as aforesaid; and further, if the Justices shall so think fit, it shall be lawful for them to order and award such amends to be made to any such person as aforesaid as they shall think fair and reasonable; and such order for the payment of wages and such award for amends shall be carried into effect by distress and sale of the goods and effects of such master, mistress, or employer as aforesaid—Provided that in no case such amends shall exceed the amount of six months wages of such artificer, msnufacturer, journeyman, workman, laborer, menial, house, or other servant as last aforesaid.

Complaints by servants
against masters.

The sum awarded not to
exceed six months wages
of such hired servant

IV. AND be it enacted, that it shall and may be lawful for any one Justice of the Peace, upon complaint or application upon oath of any artificer, splitter, fencer, well-sinker, or person engaged in the mowing, reaping or getting in, of hay, corn, shepherd, or other laborer, hired or employed for the performance of any work in a certain time or at a certain price, against any master, mistress, or employer; touching or concerning any mis-usage, refusal of necessary provision, non-payment of wages, cruelty, or other ill-treatment whatsoever, of or towards, any such person, to summon any such master, mistress, or employer, to appear before any two or more Justices at a reasonable time, to be named in such summons; and such Justices shall or

Complaints of artificers,
laborers, &c., employed
by job or piece work, a-
gainst employers.

may examine into the matter of such complaint (whether such master, mistress, or employer shall appear or not), and upon proof thereof upon oath made to their satisfaction (whether such master, mistress, or employer be present or not, if service of the summons be also upon oath proved) may order the payment of such wages as to the Justices shall then appear to be due or owing to any such person; and further, if the Justices shall so think fit, it shall be lawful for them to order and award such amends to be made to any such person as they shall think fair and reasonable, and order such for the payment of wages, and such award for amends, shall be carried into effect by distress and sale of the goods and effects of such master, mistress, or employer as aforesaid—Provided that in no case such amends shall exceed the amount of one moiety of the wages or earnings of such artificer, splitter, fencer, well-sinker, person engaged in the mowing, reaping, or getting in of hay, or corn, shepherd, or other laborer, as aforesaid.

Penalty for knowingly employing, receiving, or entertaining hired servants, not exceeding £50.

V. AND be it enacted, that any person who shall knowingly employ, receive, or entertain any such artificer, manufacturer, journeyman, workman, or other servant employed in any manner howsoever, either as a menial or house servant, or any splitter, fencer, well-sinker, person engaged in mowing, reaping, or getting in of hay or corn, shepherd, or other laborer, already employed, engaged, or retained by any other person or persons in any manner howsoever as aforesaid, during the time for which he or she shall be so employed or retained by any other person or persons as aforesaid, without leave of such other person or persons as last aforesaid, shall forfeit and pay a sum not exceeding Fifty Pounds, to be appropriated to the use of Her Majesty, Her Heirs and Successors.

Jurisdiction by two Justices.

VI. AND be it enacted, that all informations and proceedings in respect of any such offences as last aforesaid shall and may be heard and determined in a summary manner by any two or more Justices of the Peace, who shall have power to commit the offender to gaol, there to be kept to hard labor, for any period not exceeding three calendar months, in case the fine and costs adjudged by them be not paid within four days next after conviction.

Appeal to Quarter Sessions.

VII. PROVIDED always, and be it enacted, that if any person shall think himself aggrieved by any determination, order, or warrant, of any Justice of the Peace as aforesaid (except an order of commitment) such person shall have liberty to appeal therefrom to the next

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Court of Quarter Sessions ; which Court shall hear and determine the matters of such appeal; and shall make such order therein in affirmance or reversal of the conviction appealed from, with or without costs, to either party as to the said Court shall seem meet, and shall enforce such order as they make by distress and sale of the goods and chattels of any person neglecting or refusing to obey such order—Provided always, that the person so appealing shall give notice thereof to the convicting Justices within three days next after conviction, and shall deposit with them the sum of five pounds, or enter into a recognizance with two sureties for the purpose of ensuring payment of the costs of such appeal.

VIII. AND be it enacted, that all Prosecutions in respect of offences against the provisions of this Act shall be commenced within three calendar months after the offences thereby respectively charged shall have been committed. Limitation of prosecutions.

IX. AND be it enacted, that this Act may be amended or repealed by any Act to be passed during the present Session. Act may be amended.

“JOHN HUTT,”
GOVERNOR.

Passed the Council }
25th Aug., 1842. }

EDWARD C. SOUPER,
Acting Clerk of the Council.