

WESTERN AUSTRALIAN
GOVERNMENT GAZETTE.

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WESTERN AUSTRALIA,

ANNO SEXTO,
VICTORIÆ REGINÆ.

*By His Excellency JOHN HUTT, Esquire,
Governor and Commander-in-Chief in
and over the Colony of Western Aus-
tralia and its dependencies, and Vice-
Admiral of the same, with the advice
and consent of the Legislative Council
thereof.*

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 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, 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, laborer, 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 be 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.

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 laborer, 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 labour, 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, or 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 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, manufacturer, journeyman, workman, laborer, menial, house, or other servant as last aforesaid.

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 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 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 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 last aforesaid.

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.

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.

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

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 And be it enacted, that this Act may be amended or repealed by any Act to be passed during the present Session.

“JOHN HUTT,”
GOVERNOR.

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

EDWARD C. SOUPER,
Acting Clerk of the Council.

*Colonial Secretary's Office, Perth,
October 3, 1842.*

His Excellency the Governor is pleased to direct the publication of a copy of a letter from the Resident Magistrate of Toodyay giving an account of an extensive tract of grassy country, well suited to sheep pasture, which has been discovered.

*By His Excellency's command,
PETER BROWN.*

Toodyay, Sept. 18, 1842.

SIR,—I beg leave to acquaint you, for the information of His Excellency the Governor, that an extensive tract of grassy country, well suited for sheep pasture, has lately been discovered by Messrs. Drummond and myself about ten miles to the northward of Mr. Drummond's station on the Moore River. I was unwilling to make any report until I had seen the full extent of the good land, and could, with accuracy, give in a description of it; but as it appears that the discovery of this country has attracted a good deal of public attention, I shall give, as well as I can recollect, a short account of it.

Having been informed by some natives that there was a large river about two days journey to the north-west of the Moore River, we proceeded in that direction to see if such was the case. Shortly after leaving the Moore River we crossed a sandy plain varying from two to three miles in breadth, and extending a long way parallel with the river; beyond this there is a white gum forest for about 6 or 9 miles, with occasionally patches of good land, when the character of the country changed, and grassy hills appeared in every direction, covered with a small herb which remains green during the summer months, and which sheep are so fond of eating. This country appeared to be free from blackboys, and to be intersected by several small brooks, which were running at the time. We halted at a good spring; the natives informed us that there were several in that district,—I have no doubt but that their account is true, the soil being chiefly allu-

vial. We travelled through a grassy country for about eight or nine miles, and then came to a sandy plain,—shortly after gum forest,—and then arrived at the river, about 25 miles from the Moore River. There was no appearance of permanent water in it here, and the country adjoining was indifferent. We then proceeded to the eastward, in the direction from which that river appeared to come, and found some large pools, in which I think there is permanent water during the summer months. The natives said that there were larger pools higher up, but being obliged to return to the Moore River, we had not time to go any further to the eastward.

On our way home we again crossed the grassy country, which appeared to extend for 15 miles from these large pools. Mr. Drummond, Sen., said that he had been 10 miles to the eastward of our track, and the good land extended for a long way in that direction. I have no doubt but that there is a large extent of good land, as the country has been crossed in different directions, and found to be of the same character. No poisonous plants were seen, which adds materially to its value. The natives took us too much to the eastward, their object being to show us some lakes comparatively of little consequence; I think the greatest extent of good land is in the direction of N.N.E. from the Moore River; and it appears rather singular, that, if Messrs. Moore and Roe had gone a day's journey more to the northward, they would have discovered this country.

I have the honor to be,

Sir,

Your obedient servant,

JOHN SCULLY,

Resident Magistrate.

The Honorable the }
Colonial Secretary. }

*Colonial Secretary's Office, Perth,
September 29, 1842.*

His Excellency the Governor has been pleased to appoint, subject to the approval of the Right Honorable the Secretary of

State for the Colonies, Mr. Alfred Searle to the situation of Assistant-Surveyor, which has become vacant in consequence of the melancholy death of Mr. Robert Ray.

*By His Excellency's command,
PETER BROWN.*

*Colonial Secretary's Office, Perth,
September 27, 1842.*

His Excellency the Governor has been pleased to direct the following errata in a government notice which appeared in the last and the preceding week's Gazettes declaring certain lands to have reverted to the crown, to be published for general information—

6,000 acres Avon, A. Butler, should be John Butler.

2,640 do., Willett & Co., should be 3,640 acres.

*By His Excellency's command,
PETER BROWN.*

*Colonial Secretary's Office, Perth,
September 23, 1842.*

His Excellency the Governor has been pleased to direct the publication of the following notice which has been issued by the Resident Magistrate of Bunbury relative to the sale of an allotment.

*By His Excellency's command,
PETER BROWN.*

Bunbury, Sept. 18, 1842.

The Sub-Collector of Revenue will offer for sale by public auction at Bunbury on Thursday, the 13th October, the under-mentioned town allotment—

Bunbury No. 43.

For further particulars application to be made to the Resident Magistrate or Assistant-Surveyor.

GEORGE ELIOT,
Resident.

*Printed by CHARLES MACFAULL,
Government Printer.*