

Summary Ejectment.

No. X.

SUMMARY
EJECTMENT.

An Act for the speedy recovery of the possession of Tenements unlawfully held over. [4th August, 1853.]

WHEREAS it is necessary to make further provision for the recovery of the possession of Tenements unlawfully held over by the tenants thereof Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

11 Vic. No. 2
repealed.

1. From and after the passing of this Act the Act passed in the eleventh year of the reign of Her present Majesty intituled "*An Act to facilitate the recovery of possession of Tenements after due determination of the tenancy*" shall be and the same is hereby repealed.

Possession of tenements may be recovered before Justices of the Peace.

2. When the term or interest of the tenant of any land held by him for any term of years or for any less estate or interest either with or without being liable to the payment of any rent shall have expired by effluxion of time or shall have been determined by notice to quit or demand of possession and such tenant or any person claiming under him who shall actually occupy such land or any part thereof shall neglect to quit and deliver up possession of such land or of such part thereof respectively it shall be lawful for the landlord of such land or his agent to exhibit his information before any Justice of the Peace and such Justice shall thereupon issue a summons and if required so to do a duplicate thereof under his hand against the person so neglecting to quit and deliver up possession requiring such person to appear before any two or more Justices of the Peace at the place where the Petty Sessions of the district in which the land of which possession is sought to be recovered shall be situated shall usually sit to shew cause why such landlord should not be put into possession of such land and if at the time and place appointed in and by such summons or at any adjournment thereof (whether the tenant or occupier shall or shall not appear) such landlord or such agent shall give due proof according to law to the satisfaction of the Justices before whom the matter shall be heard or the majority of them of the creation and of the expiration or determination in manner aforesaid of the tenancy and that such landlord then has and had at the time of the service of the summons upon the tenant or occupier lawful right as against such tenant or occupier to the possession of such land and that the tenant or occupier against whom such summons shall be issued was the tenant in possession or the actual occupier of such land at the time of the service of such summons then (upon proof of the service of the summons in case the tenant or occupier shall not appear) it shall be lawful for the said Justices or the majority of them unless reasonable cause shall be shewn or shall appear to them to the contrary to adjudge the landlord by or for or on whose behalf such information shall be exhibited entitled to possession of such land and to award to the said landlord or to such agent by whom such information shall be exhibited his costs to be assessed by the said Justices or the majority of them and to issue a warrant under their hands directed to the constables and peace officers of or acting in or for the district or place within which such land shall be situate or to any of them or to any other person or persons as a special bailiff or special bailiffs in that behalf requiring and authorizing

Information to be exhibited and summons issued.

Proceedings at the hearing.

On proof of landlord's case adjudication to be in his favor.

Costs.

Warrant of possession to issue.

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authorizing them or him within a period to be therein named not less than seven nor more than thirty clear days from the date of such warrant to enter (by force if needful) into such land and to give possession of the same to such landlord or such agent on his behalf and such warrant shall be a sufficient authority to such constables peace officers or bailiff or bailiffs to enter upon such land with such assistants as they or he shall deem necessary and to give possession accordingly Provided always that no entry upon any such warrant shall be made on a Sunday Good Friday Christmas Day or at any time except between the hours of nine of the clock in the morning and four of the clock in the afternoon and in case such landlord or agent shall fail to appear or to give such proof as aforesaid at the time and place aforesaid it shall be lawful for such Justices or the majority of them to dismiss his information and to award to the person against whom such information shall be exhibited his costs to be assessed by such Justices or the majority of them and all costs which shall be awarded under the provisions hereof together with the reasonable charges of taking and keeping the distress shall be recoverable by distress and sale of the goods and chattels of the person who shall be adjudged or ordered to pay the same and the proceedings upon the hearing of the matter of any such information as aforesaid shall be conducted as near as may be in accordance with the proceedings upon the trial of an issue of fact in the Supreme Court of the said Colony and the parties to such information shall by themselves their counsel or attorneys have the like right of addressing the Court as well in reply as otherwise as the parties upon the trial of any such issue of fact in the Supreme Court would have or be entitled to.

3. It shall be lawful for the Justices by whom such adjudication shall be made (if it shall appear to them fit and reasonable and just so to do) to postpone the issuing of such warrant and other proceedings under such adjudication or to suspend the execution of such warrant and other proceedings for any period not exceeding fifteen clear days from the day of such adjudication either upon such terms as to security or otherwise or absolutely without imposing any terms as to such Justices shall seem meet.

4. Such summons shall be served three clear days before the day appointed for the hearing of the matter of the information upon which the same shall issue and such summons shall be served by delivering the same or a duplicate thereof personally to the person summoned thereby or in case notwithstanding all due diligence in that behalf such person cannot be personally served as aforesaid then by leaving the same with the wife or servant of such person or some other competent person either on the land in respect of which such summons shall have been issued or at the place of abode of the person so summoned and in all such cases as aforesaid the person serving such summons shall explain the nature and effect thereof to the person to whom the same or the duplicate thereof shall be delivered unless such last-mentioned person shall prevent such explanation from being made Provided always that if notwithstanding all due diligence in that behalf it shall from any cause be impracticable to serve such summons in any of the ways aforesaid then the posting of the same or a duplicate thereof on some conspicuous part of the land in respect of which the same shall have been issued shall be deemed to be good service of such summons.

5. If any tenant or occupier against whom any such warrant shall be granted shall at the time when the adjudication in respect thereof shall be made offer to give security to defend an action of ejectment or other appropriate action against him for recovery of possession of the land in respect of which such adjudication shall be made

Not to be executed on Sunday Good Friday or Christmas Day or except between 9 a.m. and 4 p.m. on failure of appearing or proof by or on behalf of landlord adjudication in favor of tenant or occupier.

Mode of recovering costs.

Power to Justice to suspend proceedings on adjudication for fifteen days.

The manner in which summons shall be served.

Original or duplicate to be served personally or if that not practicable on wife or servant.

Nature of summons to be explained unless such explanation prevented.

Or if above modes impracticable by posting on the land.

Execution of warrant may be stayed on bond of sureties being given to pay costs of action to recover land &c.

On offer to give such

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security execution of
warrant to be sus-
pended for three
days.

And if during that
interval bond be
given warrant to be
void.

Bond to be approved
and certified by
Justices.

Mode for parties to
bond to obtain relief
in case of delay on
the part of the land-
lord or otherwise.

Protection of Jus-
tices constables &c.

made in the Supreme Court of the said Colony or any other Court having competent jurisdiction in that behalf to be brought by or on behalf of the landlord by or for or on whose behalf the information upon which such adjudication shall be made shall have been exhibited then the execution of such warrant and all other proceedings under such adjudication shall be suspended for three clear days and if during that interval such tenant or occupier shall give security by a joint and several bond of two other responsible persons to be approved of by the Justices by whom the matter of such information shall be heard or the majority of them in such sum of money as to them (regard being had to the value of such land and to the probable cost of such action and the probable length of time which must elapse before the same can be determined) shall seem reasonable and they shall direct to such landlord his executors and administrators conditioned to be void (in case such landlord his heirs executors or administrators shall succeed in such action) upon payment of all such costs of suit as shall be awarded to or recovered by such landlord his heirs executors or administrators in such action and of all mesne profits of the said land accruing between the time of such adjudication and the time when such landlord his heirs executors or administrators shall obtain possession of such land by virtue of such action and of all such costs as shall or may be awarded by such Justices or the majority of them to be paid by such tenant or occupier to such landlord or his agent then and in such case such warrant shall not be executed or put in force but shall become and be void and no further proceeding shall be taken under or in pursuance of such adjudication for recovery of such last-mentioned costs or otherwise.

6. Every such bond as hereinbefore mentioned shall be approved of and certified as so approved of by the Justices by whom the matter of such information shall be heard or the majority of them by a memorandum in writing signed by them which memorandum shall be on or annexed to such bond Provided always that the Court in which any such action of ejectment or other action for the recovery of the land in respect of which such adjudication shall have been made or any Judge of such Court may upon application of the parties bound thereby or either of them their or either of their heirs executors or administrators in a summary way give such relief to the person or persons making such application or make such other order in the premises as may be agreeable to justice and every rule or order made by such Court or Judge thereupon shall have the nature and effect of a defeasance to such bond Provided also that if any unreasonable delay shall occur in the bringing or prosecuting such action of ejectment or other action for recovery of such land then the Court in which such action shall be brought or any Judge thereof or in case no such action shall have been brought and be depending then any Court having competent jurisdiction to entertain any such action or any Judge of any such Court may upon application of the parties bound by any such bond or either of them their or either of their heirs executors or administrators in a summary way order or direct such bond to be cancelled and given up to the person or persons making such application or make such other order or direction in the premises as may be agreeable to justice and if a rule or order shall thereupon be made by any such Court or Judge ordering or directing such bond to be cancelled then such bond shall upon the making of such rule or order become and be thenceforth void but without prejudice to any action or other remedy thereon for any previous breach of the condition of defeasance thereof.

7. It shall not be lawful to bring any action or prosecution against the said Justices by whom such warrant as aforesaid shall have

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have been issued or against any constable peace officer or bailiff by whom such warrant may have been executed for issuing such warrant or executing the same respectively by reason that the landlord by or for or on whose behalf the same shall be obtained had not lawful right to the possession of the land in respect of which such warrant shall have issued.

8. In all cases where at the time of executing any such warrant the landlord by whom or for or on whose behalf such warrant shall have been obtained shall have as against the person in possession of such land lawful right to the possession thereof then neither such landlord nor his agent nor any other person acting on his behalf shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act but the party aggrieved may if he think fit bring an action on the case for any such irregularity or informality.

Where landlord's title good not to be deemed a trespasser but be liable by action on the case for any irregularity.

9. No such warrant nor anything herein contained shall protect any landlord by whom or for or on whose behalf any such warrant for the delivery of possession of any land shall be obtained as aforesaid from any action which may be brought against him by any person in possession of such land or any part thereof for or in respect of any entry upon or taking possession thereof under or by virtue of any such warrant where such landlord shall not at the time of executing the same have as against such person in possession lawful right to the possession thereof and in all such cases as last aforesaid such landlord shall be liable in respect of such entry and taking possession in like manner as if the same had been made or taken by him or by his direction without the authority of any such warrant Provided also that nothing herein contained shall prejudicially affect any rights to which any person may be entitled as out-going tenant by the custom of the country or otherwise.

Act not to protect persons who have no legal right.

And in such case landlord to be deemed a trespasser.

10. In construing this Act the word "land" shall be taken to signify lands houses or other corporeal hereditaments and the word "person" shall be taken to comprehend a body politic corporate or collegiate as well as an individual and the word "agent" shall be taken to signify any person usually employed by the landlord in the letting of the land or in the collection of the rents thereof or specially authorized to act in the particular matter by writing under the hand of such landlord and unless there be something in the context repugnant thereto any word denoting the singular number or the male sex shall be taken to extend to any other number of persons and things and to both sexes.

Construction of terms.

11. In all proceedings under this Act not herein expressly provided for the same shall be regulated and conducted in accordance with the provisions of the law in force for the time being respecting summary proceedings before Justices of the Peace out of Sessions and all such provisions shall so far as the same are applicable be in force and observed in all proceedings under this Act not herein expressly provided for but no person shall be imprisoned for non-payment of any costs awarded under the provisions hereof and any person who shall feel aggrieved by any order adjudication or warrant made or issued under the provisions hereof shall have the like power of applying to the Supreme Court of the said Colony or any Judge thereof in order to obtain a prohibition to restrain any Justice or Justices by whom any such order adjudication or warrant may be made or issued and the landlord or agent or tenant or occupier or other person interested in maintaining the same from proceeding (or from further proceeding as the case may be) upon or in respect of the same as are given by the Act of the said Governor and Council passed in the fourteenth year of the reign of Her present Majesty intituled "*An Act to adopt and*"
"apply

Where not expressly provided for Justices to proceed under 14 Vic. No. 43.

And provisions therein as to prohibition to apply to proceedings under this Act.

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“ apply certain Acts of Parliament passed for facilitating the performance of the duties of Justices of the Peace and for protecting them from vexatious actions and to prevent persons convicted of offences from taking undue advantage of mere defects or errors in form” or which by any other Act in force for the time being may be given to any person feeling aggrieved by the summary convictions or orders of Justices of the Peace and all the provisions of the said last recited Act or any other Act in force for the time being in reference to applying for and obtaining a prohibition in respect of such summary convictions and orders shall apply to and be in force in respect to every such order adjudication and warrant made or issued under the provisions of this Act and shall be applied in like manner as far as practicable as if every such order adjudication or warrant were such a summary conviction or order as aforesaid.

Information &c. not to be objected to for alleged defects in substance or form but such defects may be amended by the Justices.

12. No objection shall be taken or allowed to any information complaint summons conviction or warrant made or preferred under or by virtue of this Act for any alleged defect in substance or in form or for any variance between it and the evidence adduced on the part of the complainant but if any such variance or defect shall appear to the Justice or Justices present at and acting in the hearing of the case it shall be lawful for such Justice or Justices upon such terms as he or they shall think fit to cause the said proceedings to be amended and to adjourn the hearing of the case to some future day if necessary.

Forms.

13. The forms in the Schedule to this Act annexed or any other forms to the like effect may be used in the carrying out of the provisions of this Act Provided always that this enactment shall not invalidate any information summons adjudication order bond warrant or other proceeding which may be laid or drawn in any other appropriate form or manner.

THE SCHEDULE REFERRED TO.

Form of Information.

DISTRICT OF } BE it remembered That on the day of in the
 (the District in which the } year of our Lord one thousand eight hundred and fifty
 land of which possession is } at in the Colony of New South Wales (A. B.) or
 sought to be recovered is } (C. D. the agent of A. B.) the landlord of the land hereinafter
 situate) } described informed me Esquire one of Her
 TO WIT } Majesty's Justices of the Peace in and for the Colony aforesaid
 (describing the jurisdiction of the Justices before whom the information is exhibited) that
 theretofore E. F. held from the said A. B. by virtue of a tenancy (for a term of years) or
 (from year to year or from month to month or from week to week or at will or at sufferance
 or otherwise as the case may be) (all that parcel of land) or (all that messuage or dwelling-
 house or otherwise according to the fact) situate in the (city town parish or other locality) in
 the District of in the Colony aforesaid bounded (describing the land by name
 abuttals or otherwise with sufficient particularity to identify the same) and that the said
 tenancy (expired by effluxion of time) or (was determined by notice to quit or demand of
 possession) on or about the day of (then instant) or (last past or
 otherwise according to the fact) and that such land was at the time of my being so informed
 as aforesaid actually occupied by (the said E. F.) or (G. H. a person claiming under the
 said E. F.) and that the said (E. F.) or (G. H.) neglected to quit and deliver up possession
 thereof and that the said A. B. then had lawful right as against the said (E. F.) or (G. H.)
 to the possession of such land and thereupon the said (A. B.) or (C. D.) prayed that the
 said A. B. might be put into possession of the said land under and by virtue of the pro-
 visions of the Statute in such case made and provided.

Exhibited at aforesaid }
 on the day and year first above }
 written before me. }

J.P.

The Justice above named.

Form

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To [E. F.] or [G. H.]

WHEREAS an information has been exhibited this day before me the undersigned (*here describe the Justice as in the Information*) by (A. B.) or (C. D. the agent of A. B.) praying that the said A. B. may under and by virtue of the provisions of the Statute in such case made and provided be put into possession of (*here describe the land as in the information*) of which it is therein alleged you are now in the actual occupation on the ground that the same was held from the said A. B. by (you) or (E. F. under whom it is also therein alleged you claim) by virtue of a tenancy (for a term of years or otherwise as averred in the information) which (expired by effluxion of time or otherwise as averred in the information) on or about the day of (now instant) or (last past or otherwise as averred in the information) and that you neglect to quit and deliver possession of the said land These are therefore to command you in Her Majesty's name to be and appear on the day of now (instant) or (next ensuing) at the hour of of the clock in the forenoon at (*the place where the Petty Sessions of the District in which the land in question is situated usually sit*) and so from day to day at the same hour of the day until the matter of the said information shall be disposed of before such two or more of Her Majesty's Justices of the Peace as may then be there to shew cause why the said A. B. should not be put into possession of the said land and why you should not be adjudged to pay to the said (A. B.) or (C. D.) his costs of proceeding to obtain and of recovering possession of the said land And take notice that if you fail to appear and shew such cause as aforesaid you will be liable to have a warrant issued against you under which such possession of the said land may be given to the said A. B. and to be adjudged to pay such costs as aforesaid Given under my hand the day of in the year of our Lord one thousand eight hundred and fifty-

J.P.

The Justice above named.

Form of Adjudication in favor of Landlord and Award of Costs to him or his Agent.

DISTRICT OF } WHEREAS an information was exhibited on the day
(as in Information) } of now (instant) or (last past) by (A. B.) or (C. D.)
TO WIT. } the agent of A. B.) praying that the said A. B. might under and by
virtue of the provisions of the Statute in such case made and provided be put into possession of (*here describe the land as in the information*) of which it was therein alleged that (E. F.) or (G. H.) was then in the actual occupation on the ground that the same was held from the said A. B. by (the said E. F.) or (E. F. under whom it was also therein alleged the said G. H. claimed) by virtue of a tenancy (for a term of years or otherwise as averred in the information) which (expired by effluxion of time or otherwise as in the information) on or about the day of (then instant) or (last past or otherwise as averred in the information) and that the said (E. F.) or (G. H.) neglected to quit and deliver possession of the said land And whereas thereupon a summons to the said (E. F.) or (G. H.) was duly issued and served whereby the said (E. F.) or (G. H.) was duly summoned to be and appear on the day of now (instant) or (last past) at the hour of of the clock in the forenoon at (*as in the summons*) (being the place where the Petty Sessions of the said District usually sit) and so from day to day until the matter of the said information should be disposed of before such two or more of Her Majesty's Justices of the Peace as might then be there to shew cause why the said A. B. should not be put into possession of the said land and why the said (E. F.) or (G. H.) should not be adjudged to pay to the said (A. B.) or (C. D.) his costs of proceeding to obtain and recovering possession of the said land And whereas the matter of the said information has in pursuance of such summons to the said (E. F.) or (G. H.) as aforesaid been duly heard by and before us (*the Justices making the adjudication*) of Her Majesty's Justices of the Peace in and for the Colony aforesaid (*describing the jurisdiction of the Justices by whom the matter is heard*) at the said place at which the said (E. F.) or (G. H.) was so summoned to appear as aforesaid we being (all) or (a majority of) the Justices then and there sitting And the said (A. B.) or (C. D.) hath given due proof according to law to the satisfaction of us of the creation and of the (expiration) or (determination) in manner aforesaid of the said tenancy and that the said A. B. had at the time of the service of the said summons upon the said (E. F.) or (G. H.) and at the time of the said hearing and now has lawful right as against the said (E. F.) or (G. H.) to the possession of the said land and that the said (E. F.) or (G. H.) was the tenant in possession or the actual occupier of the said land at the time of the said service of the said summons (and whereas the said (E. F.) or (G. H.) duly appeared in pursuance of the said summons and according to the exigency thereof before us to defend himself touching the matter of the said information but did not shew any reasonable cause to us) or (and whereas the said (E. F. or (G. H.) not having appeared in pursuance of the said summons or according to the exigency thereof due proof of the service of the said summons was given to us) and no reasonable cause was in fact shewn or appeared to us why we should not adjudge the said A. B. to be entitled to possession of the said land Now therefore we do hereby adjudge that the said A. B. is entitled to the possession of the said land

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land and that a warrant shall issue according to the provisions of the Statute in such case made and provided for putting the said A. B. into possession of the said land within (*not less than seven nor more than thirty*) clear days from the date thereof (*Here add in case costs shall be awarded to the landlord or his agent*)—And we do assess the costs of the said (A. B.) *or* (C. D.) of proceeding to obtain and of recovering possession of the said land at the sum of _____ which said sum of money we do award to the said (A. B.) *or* (C. D.) for his said costs and we do order and adjudge that the same shall be paid forthwith by the said (E. F.) *or* (G. H.) to the said (A. B.) *or* (C. D.) And we do further award and adjudge that if the same be not paid forthwith that the same be levied by distress and sale of the goods and chattels of the said (E. F.) *or* (G. H.) Witness our hands and seals the _____ day of _____ in the year of our Lord one thousand eight hundred and fifty

_____ J. P. (L. S.)

_____ J. P. (L. S.)

Form of Warrant of Possession.

DISTRICT OF _____ } [To _____ a Constable or Peace
 (as in Information) } Officer of or acting for the District of
 TO WIT. } (*or other place as the case may be*) in the Colony of New South
 _____ Wales and to all other Constables and Peace Officers of or act-
 _____ ing for the said District (*or other place as the case may be*) and
 _____ to each of them.]
 Or [To all Constables and Peace Officers of or acting for the District
 of _____ (*or other place as the*
 _____ *case may be*) in the Colony of New South Wales and to each of
 _____ them.]
 Or [To _____ a Special Bailiff for the
 _____ purposes hereinafter mentioned.]
 Or [To _____ and _____ Special
 _____ Bailiffs for the purposes hereinafter mentioned and to each of them.]

WHEREAS we the undersigned _____ of Her Majesty's Justices of the Peace in and for the Colony of New South Wales (*describing the jurisdiction of the Justices making the adjudication*) in pursuance of the provisions of the Act of the Governor and Legislative Council of the said Colony passed in the _____ year of the reign of Her Majesty Queen Victoria intituled "*An Act for the speedy recovery of the possession of Tenements unlawfully held over*" did on this _____ day of _____ in the year of our Lord one thousand eight hundred and fifty _____ upon the hearing of the matter of an information exhibited by (A. B.) *or* (C. D.) the agent of A. B.) against (E. F.) *or* (G. H.) adjudge that the said A. B. is entitled to the possession of (*here describe the land as in the information*) And we did also adjudge that a warrant should issue according to the provisions of the said Act for putting the said A. B. into possession of the said land within (*as in adjudication*) clear days from the date thereof Now therefore we do authorize and command you [and (*if directed to more than one person*) each of you] within the period of _____ clear days from the date hereof on any day except on Sunday (*and if either Christmas Day or Good Friday shall occur during the interval add "or Christmas Day" "or Good Friday" as the case may require*) between the hours of nine of the clock in the forenoon and four of the clock in the afternoon [with or without the aid of the said (A. B.) *or* (C. D.) or any other person or persons whom you may think requisite to call to your assistance] to enter (by force if needful) into and upon the said land and to eject all persons thereout and therefrom and to give possession of the same to the said (A. B.) *or* (C. D.) as such agent as aforesaid on behalf of the said A. B.)

Given under our hands the _____ day of _____ in the
 year of our Lord one thousand eight hundred and fifty

_____ J. P.

_____ J. P.

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Form of Bond as Security to defend Action and supersede Execution of Warrant.

Know all men by these presents that We K. L. of in the Colony of New South Wales and M. N. of in the Colony aforesaid are jointly and severally held and firmly bound unto A. B. of in the Colony aforesaid in the sum of pounds of lawful British money to be paid to the said A. B. his executors or administrators for which payment to be well and truly made we bind ourselves our heirs executors and administrators jointly and each of us binds himself his heirs executors and administrators severally by these presents Scaled with our Seals— Dated the day of in the year of our Lord one thousand eight hundred and fifty

WHEREAS Esquires of Her Majesty's Justices of the Peace in and for the Colony of New South Wales (describing the jurisdiction of the Justices by whom the adjudication was made) in pursuance of the provisions of the Act of the Governor and Legislative Council of the said Colony passed in the year of the reign of Her Majesty Queen Victoria intituled "An Act for the speedy recovery of the possession of Tenements unlawfully held over" did on the day of now (instant) or (last past) upon hearing the matter of an information exhibited by (the above-named A. B.) or (C. D. the agent of the above-named A. B.) against (E. F.) or (G. H.) adjudge that the said A. B. was entitled to the possession of (here describe the land as in the information) and did also adjudge that a warrant should issue according to the provisions of the said Act for putting the said A. B. into possession of the said land (here add in case costs were awarded to the landlord or his agent) and the said Justices assessed the costs of the said (A. B.) or (C. D.) of proceeding to obtain and of recovering possession of the said lands at the sum of (as in the adjudication) which sum they did award to the said (A. B.) or (C. D.) for his said costs and the said Justices did order and adjudge that the same should be paid by the said (E. F.) or (G. H.) to the said (A. B.) or (C. D.) And whereas at the time when the said adjudication was made the said (E. F.) or (G. H.) in pursuance of the provisions in that behalf contained in the said Act offered to give security to defend an action of ejectment or other appropriate action against him for recovery of possession of the said land in the Supreme Court of the said Colony or any other Court having competent jurisdiction in that behalf to be brought by or on behalf of the said (A. B.) And whereas the said Justices in accordance with the provisions in that behalf contained in the said Act directed that the sum of money in which the bond in that behalf mentioned in the said Act should be given should be the above-named sum of pounds and the said Justices have approved of the above bounden K. L. and M. N. as two responsible persons to enter into the said bond and the said Justices have approved hereof as such bond as aforesaid Now the condition of the above written bond is such that (in case the said A. B. his heirs executors or administrators shall succeed in such action as aforesaid for the recovery of the said land) if the said (E. F.) or (G. H.) his executors or administrators or any person on his or their behalf shall pay to the said A. B. his heirs executors or administrators all such costs of suit as shall be awarded to or recovered by the said A. B. his heirs executors or administrators in such action and all mesne profits of the said land accruing between the time of the aforesaid adjudication and the time when the said A. B. his heirs executors or administrators shall obtain possession of the said land by virtue of such action (here add in case costs were awarded to the landlord or his agent) and the said sum of so ordered and adjudged by the said Justices to be paid by the said (E. F.) or (G. H.) to the said (A. B.) or (C. D.) as aforesaid then the said above written bond shall be void.

K. L. (L. s.)
M. N. (L. s.)

Signed sealed and delivered by the above-named K. L. and M. N. in the presence of O. P. (the attesting witness or witnesses.)

Form of Memorandum to be written on or annexed to such Bond and signed by the Justices.

We the Justices named in this (or the annexed) bond do hereby certify that we approve thereof. As witness our hands the day of in the year of our Lord one thousand eight hundred and fifty-

J. P.

J. P.

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Form of Adjudication in favor of Tenant or Occupier and Award of Costs to him.

DISTRICT OF } WHEREAS an information was exhibited on the day
 (as in Information) } of now (instant) or (last past) by (A. B.) or (C. D.)
 TO WIT. } the agent of A. B.) praying that the said A. B. might under and by
 virtue of the provisions of the Statute in such case made and provided be put into possession
 of certain land situate in the District of in the Colony of New South Wales
 therein described or referred to of which it was therein alleged that (E. F.) or (G. H.) was
 then in the actual occupation and thereupon a summons to the said (E. F.) or (G. H.) was
 duly issued and served whereby the said (E. F.) or (G. H.) was duly summoned to be and
 appear on the day of now (instant) or (last past) at the hour
 of of the clock in the forenoon at (as in the summons) (being the place where
 the Petty Sessions of the said District usually sit) and so from day to day until the matter
 of the said information should be disposed of before such two or more of Her Majesty's
 Justices of the Peace as might then be there to shew cause why the said A. B. should not
 be put into possession of the said land And whereas the matter of the said information has
 in pursuance of such summons to the said (E. F.) or (G. H.) as aforesaid been duly called
 on before us (the Justices making the adjudication) of Her Majesty's Justices of the
 Peace in and for the Colony aforesaid (describing the jurisdiction of the Justices before
 whom the matter is called on) at the said place at which the said (E. F.) or (G. H.) was so
 summoned to appear as aforesaid we being (all) or (a majority of) the Justices then and
 there sitting and the said (E. F.) or (G. H.) having then and there appeared before us to
 defend and oppose the said information and the said (A. B.) or (C. D.) (having failed to
 appear) or (having also appeared but having failed to give proof to our satisfaction) in
 support of his said information we do therefore adjudge that the said information be
 dismissed and the same is hereby dismissed accordingly (Here add in case costs shall be
 awarded to the tenant or occupier—) And we do assess the costs of the said (E. F.) or (G. H.)
 of appearing and defending and opposing the said information at the sum of
 which said sum of money we do award to the said (E. F.) or (G. H.) for his said costs And
 we do order and adjudge that the same shall be paid by the said (A. B.) or (C. D.) to the
 said (E. F.) or (G. H.) And we do further award and adjudge that if the same be not paid
 forthwith that the same be levied by distress and sale of the goods and chattels of the said
 (A. B.) or (C. D.) Witness our hands and seals the day of
 in the year of our Lord one thousand eight hundred and fifty-

_____ J. P. (L.S.)

_____ J. P. (L.S.)

Form of Distress Warrant for Non-payment of Costs.

[To a Constable or Peace Officer of or
 acting for the District of (or other place as
 the case may be) in the Colony of New South Wales and to all
 other Constables and Peace Officers of or acting for the said
 District (or other place as the case may be) and to each of them.]
 Or [To all Constables and Peace Officers of or acting for the District of
 (or other place as the
 case may be) in the Colony of New South Wales and to each of
 them.]
 Or [To a person specially named
 for the purposes hereinafter mentioned.]
 Or [To and
 persons specially named for the purposes hereinafter mentioned
 and to each of them.]

WHEREAS* on the day of now (instant) or
 (last past) at (the place where the adjudication took place) in the District of
 in the Colony of New South Wales the matter of an information exhibited by (A. B.) or
 (C. D. the agent of A. B.) against (E. F.) or (G. H.) under and by virtue of the provisions
 of the Act of the Governor and Legislative Council of the said Colony passed in the
 year of the reign of Her Majesty Queen Victoria intituled "An Act for the speedy recovery
 of the possession of Tenements unlawfully held over" was duly heard and adjudicated upon
 by (the Justices making the adjudication) of Her Majesty's Justices of the
 Peace in and for the said Colony (describing the jurisdiction of the Justices making the
 adjudication) and such adjudication was in favor of the said (A. B.) or (C. D. on behalf of
 the said A. B.) or (E. F.) or (G. H.) and in and by such adjudication the said Justices did
 assess the costs of the said (A. B.) or (C. D.) or (E. F.) or (G. H.) in the premises at the
 sum of (as in the
 adjudication) and did award to the said (A. B.) or (C. D.) or (E. F.) or (G. H.) the said
 sum of money for his said costs and did order and adjudge that the same should be paid
 forthwith by the said (E. F.) or (G. H.) to the said (A. B.) or (C. D.) [or by the said (A. B.)
 or (C. D.) to the said (E. F.) or (G. H.)] and that if the same should not be forthwith
 paid

Railways Gauge.

paid that the same should be levied by distress and sale of the goods and chattels of the said (E. F.) or (G. H.) or (A. B.) or (C. D.) and in default of sufficient distress that the said (E. F.) or (G. H.) or (A. B.) or (C. D.) should be imprisoned in Her Majesty's Gaol at _____ in the said Colony for the period of _____ unless the said sum and all costs and charges of the said distress and of the commitment and conveyance of the said (E. F.) or (G. H.) or (A. B.) or (C. D.) to the said Gaol should be sooner paid* And whereas the said (E. F.) or (G. H.) or (A. B.) or (C. D.) hath not paid the said sum of money so ordered and adjudged to be paid by him for the said costs as aforesaid but therein hath made default These are therefore to command you in Her Majesty's name forthwith to make distress of the goods and chattels of the said (E. F.) or (G. H.) or (A. B.) or (C. D.) and if within the period of _____ clear days after the making of such distress the said sum of money above mentioned together with the reasonable charges of taking and keeping the said distress shall not to be paid that then you do sell the said goods and chattels so by you distrained and do pay the money arising from such sale unto _____ the Clerk of Petty Sessions of the Justices of the Peace for the said District of _____ in order that he may pay and apply the same as by law directed and may render the overplus if any on demand to the said (E. F.) or (G. H.) or (A. B.) or (C. D.) Given under my hand and seal the day of _____ in the year of our Lord one thousand eight hundred and fifty-

J. P. (L. S.)
