

No. IX.**SERVANTS AND
LABORERS.****An Act for the better regulation of Servants
Laborers and Work People. [17th July,
1828.]**

Preamble.

Servants neglecting or refusing to work or absenting themselves from work may be brought before a Magistrate and on conviction shall be committed to the common gaol or house of correction for any time not exceeding six months or three months respectively.

WHEREAS many of the Acts of the British Parliament relating to servants and laborers are not applicable to the Colony of New South Wales and great uncertainties consequently prevail in the administration of justice between masters and servants in the said Colony Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council That if any artificer manufacturer journeyman workman laborer or servant employed in any manner howsoever either as a menial or house servant or on any farm or estate who shall have been hired or engaged by or with any master or mistress or employer or employers for any time whatsoever shall during any part of the time for which he or she shall have been so hired or engaged absent himself or herself from the service of the person or persons to whom he or she shall be so engaged as aforesaid during the customary time of serving or working at the trade occupation or employment for which he or she shall have been so hired or engaged 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 or shall return his or her work or desert or quit the same before it shall have been completely finished without the consent of the person or persons by whom he or she shall have been so employed it shall be lawful for any one or more Justice or Justices of the Peace to cause every person who shall be complained of as so offending to be brought before him or them or before some other Justice or Justices of the Peace and the Justice or Justices before whom any person complained of as aforesaid shall be so brought shall hear and determine the matter of every such complaint and if no reasonable and sufficient cause be shewn to the contrary such Justice or Justices shall commit every person convicted of so offending as aforesaid to the common gaol there to remain without bail or mainprize for any time not exceeding six calendar months or at the discretion of such Justice or Justices to some house of correction there to remain and to be kept to hard labor for any time not exceeding three calendar months and every person convicted of so offending as aforesaid shall moreover forfeit all or such part of his or her wages or pay which may or shall be due or owing to him or her from and by the party complaining at the time of such conviction as in the judgment and discretion of such Justice or Justices shall appear just and reasonable.

Persons so convicted shall forfeit all wages and pay.

Persons employing servants previously retained to be fined not more than £20 nor less than £5.

Half the above fine to be paid to the person aggrieved and the other half to the Benevolent Society.

2. And be it further enacted That if any person shall knowingly receive employ or entertain any such artificer laborer or servant employed in any manner howsoever either as a menial or house servant or on any farm or estate already employed or retained by any other person or persons during the time for which he or she shall be so employed or retained without leave of such other person or persons as last aforesaid every such offender being thereof lawfully convicted before any one or more Justices of the Peace shall for every such offence forfeit and pay any sum not less than Five Pounds nor more than Twenty Pounds one moiety thereof to be paid to the person aggrieved and the other moiety to be paid to the Treasurers of the Benevolent Society and applied in the maintenance of the poor of the Colony

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Colony and accounted for from time to time in such manner as the Governor for the time-being shall appoint and direct.

3. And be it further enacted That if any such artificer laborer or servant employed in any manner howsoever either as a menial or house servant or on any farm or estate shall wilfully or negligently spoil or destroy any goods wares work or materials for work committed to his or her care or charge or wherewith he or she shall be entrusted by his or her master or mistress or employer or shall negligently injure or lose any property entrusted to his care every such offender and his or her accomplice or accomplices being thereof lawfully convicted before any one or more Justice or Justices of the Peace shall forfeit and pay double the value of such goods wares work or materials for work so spoiled or destroyed or other property injured or lost as aforesaid to the owner or owners thereof respectively and shall be committed to gaol by such Justice or Justices until the same be paid or in failure of payment for any period not less than one month nor more than six months at the discretion of such Justice or Justices.

Servants spoiling destroying or losing any property entrusted to them to pay double the value of such property or be committed to gaol for any time not more than six nor less than one month.

4. And be it further enacted That in case any master or mistress or other employer shall ill-use any such artificer laborer or servant employed in any manner howsoever either as a menial or house servant or on any farm or estate it shall and may be lawful for any one or more Justice or Justices of the Peace upon complaint being made to him or them thereof on oath to issue a summons to compel the appearance before him or them or before any other Justice or Justices of the Peace of such master or mistress or other employer and upon his or her appearance or upon proof of such master mistress or other employer having been duly summoned then upon the day named in such summons for the appearance of such master mistress or employer and whether he or she shall be present or not to proceed to hear the proof of such ill-usage and such Justice or Justices may upon due proof thereof order and award such amends to be made to the party aggrieved as he or they shall think fair and reasonable and such award 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 laborer or servant employed in any manner howsoever either as a menial or house servant or on any farm or estate and such Justice or Justices may also order and direct that the term of service or employment for which such artificer laborer or servant employed in any manner howsoever either as a menial or house servant or on any farm or estate shall have contracted to serve shall from thenceforth cease determine and be at an end.

Upon proof of ill-usage from any employer Magistrates are authorized to order amends to the servant to the extent of six months' wages and to cancel the agreement between them.

5. And be it further enacted That the Justice or Justices before whom any person or persons shall be convicted of any offence against this Act shall cause all such convictions and the warrants or orders for commitments thereupon to be respectively drawn up in the form or to the effect set forth in the Schedules to this Act.

Warrants or orders to be drawn in the form set forth in Schedule.

6. And be it further enacted That if any person convicted of any offence or offences punishable by this Act before one or two Justice or Justices of the Peace shall think himself or herself aggrieved by the judgment of such Justice or Justices such person shall have liberty to appeal from any such conviction to the next Court of Quarter Sessions of the Peace which shall be held for the district or place wherein or nearest to which such offence shall have been committed and that the execution of every judgment so appealed from shall be suspended in case the person so convicted shall with two sufficient sureties immediately before such Justice or Justices enter into a bond to His Majesty His Heirs and Successors in the penal sum of double the amount of the penalty so incurred or forfeited or in case such

Persons convicted may appeal to the next Court of Quarter Sessions.

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Such appeal shall be final.

such conviction should contain a judgment of imprisonment such appellant shall immediately enter into a recognizance before such Justice or Justices himself or herself in the penalty of twenty pounds with two sufficient sureties in the penalty of ten pounds each which bond or recognizance respectively such Justice or Justices is and are hereby authorized and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions and to pay such costs as the said Court shall award on such occasion and the Justices in the said Court of Quarter Sessions are hereby authorized and required to hear and determine the matter of the said appeal and to award such costs as to them shall appear just and reasonable to be paid by either party and such decision shall be final between the said parties to all intents and purposes and if upon hearing the said appeal the judgment of the Justice or Justices before whom the appellant shall have been convicted shall be affirmed such appellant shall forthwith pay the forfeiture or penalty if any mentioned in such conviction and the costs awarded to be paid by such appellant and in default of payment thereof or in case such conviction shall contain a judgment of imprisonment such appellant shall immediately be committed by the said Court to the common gaol or house of correction according to such conviction and for the space of time therein mentioned without bail or mainprize and also until the payment of such costs as shall be awarded by the said Court to be paid by such appellant.

SCHEDULE TO WHICH THIS ACT REFERS.

Form of Conviction and Commitment.

To WIT—Be it remembered that on the _____ day of _____ in the _____ year of the reign of &c. and in the year of our Lord 182_____ A. B. _____ was convicted before me or us (naming the Justices) one or two of His Majesty's Justices of the Peace duly authorized in that behalf of having (state the offence) contrary to an Act of the Governor and Council passed in the ninth year of the reign of His Majesty King George the Fourth entitled "*An Act for the better regulation of Servants Laborers and Work People*" and I or we the said Justice or Justices do hereby order and adjudge the said A. B. _____ for the said offence to be committed to and confined in the (place where to be confined) for the space of _____ or to be committed to the house of correction at _____ there to be kept to hard labor for the space of _____

Given under my or our hands the day and year above written.

Form of Conviction in a pecuniary penalty.

To WIT—Be it remembered that on the _____ day of _____ in the _____ year of the reign of &c. and in the year of our Lord 182_____ A. B. _____ was convicted before me or us (naming the Justices) one or two of His Majesty's Justices of the Peace duly authorized in that behalf of having (state the offence) contrary to an Act of the Governor and Council passed in the ninth year of the reign of His Majesty King George the Fourth intituled "*An Act for the better regulation of Servants Laborers and Work People*" and I or we the said Justice or Justices do hereby adjudge and determine the said A. B. _____ for the said offence to forfeit and pay the sum of _____ to be distributed as the said Act directs.

Given under my or our hands the day and year above written.
