

Laws of Her Majesty's Province of United Canada, passed in the year 1847. Montreal:
Stewart Derbishire & George Desbarats, 1847.

10 & 11 Victoria – Chapter 23

An Act to regulate the duties between Master and Servant, and for other purposes therein mentioned. 28th July, 1847.

Whereas no Statute is in force to regulate the duties between Masters and Servants or Labourers in that part of the Province formerly Upper Canada; And whereas it would tend to promote the general interests of society if such duties were better defined and understood: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*; and it is hereby enacted by the authority of the same, That from and after the passing of this Act, all agreements or bargains between Masters and Servants or Labourers, for the performance of any duties or service of whatsoever nature, whether such agreement be verbal or written, shall, upon due proof, be binding on each party for the due fulfilment thereof; Provided always, that such verbal agreement shall not exceed the term of one year.

II. And be it enacted, That after any such engagement as contemplated by this Act shall have been entered into, any person having thereby engaged to perform any service or work, and who shall, during the period of such engagement, and after the commencement of such employment, refuse to go to work, or who shall (without permission or discharge) leave the employ of the party whom he was engaged to serve, or who shall refuse to obey the lawful commands of the person under whose direction such services are to be performed, or who shall neglect the service or injure the property of such employer, shall (upon the complaint of such employer, or any person in charge under him) be liable to punishment for every such offence in the manner hereinafter provided

III. And be it enacted, That if any tavern keeper, boarding-house keeper or other person, shall induce or persuade any servants or labourers to confederate for demanding extravagant or high wages, and prevent their hiring, then, upon due proof of the offence, such tavern keeper shall forfeit his license, in addition to any fine, and such boardinghouse keeper or other, person shall be subject to fine or imprisonment, as hereinafter provided.

IV. And be it enacted, That the wearing apparel of any servant or labourer shall not be kept by any tavern keeper or boarding-house keeper in pledge for any expenses incurred to any greater amount than one pound ten shillings currency, on the payment or tender of which sum, or of any lesser sum due, such wearing apparel shall be immediately given up, whatever be the amount due

by such servant or laborer: Provided always, that this shall not apply to other property of such servant or labourer.

V. And be it enacted, That it shall be the duty of any one or more of Her Majesty's Justices of the Peace for that part of this Province which formerly constituted the Province of Upper Canada to receive the complaints upon oath of parties complaining of any contravention of the preceding provisions of this Act, and to cause all parties concerned to appear before him or them, and to hear and determine the same in a summary and expeditious manner, and to punish parties found guilty of the offence alleged by fine or imprisonment, allowing such costs as may be legal and just, and all fines imposed under this Act shall be paid to the Treasurer of the District, Town, or City in which such conviction may be had, to be applied to the general uses of such District, Town or City respectively: Provided always, that no Justice or Justices shall impose any fine exceeding five pounds, and no imprisonment shall exceed one month, nor be less than one day.

VI. And be it enacted, That in every case of a summary conviction under this Act where the sum which shall be forfeited, or which shall be imposed as a penalty by the Justice, shall not be paid either immediately after the conviction or within such period as the Justice shall at the time of conviction appoint, it shall be lawful for the convicting Justice to commit the Offender to the Common Jail of the District where such conviction shall have been had, there to be imprisoned for the time limited by such conviction.

VII. And be it enacted, That any person offending against the preceding provisions of this Act may be prosecuted, convicted and punished in any District in which he shall be found, and the offence shall be deemed to be committed in such District, whether such District be or be not that in which his employer resides, or in which the contract of service was entered into.

VIII. And be it enacted, That it shall and may be lawful for any one or more such Justices, upon oath of any such servant or labourer against his master or employer concerning any misusage, refusal of necessary provisions, cruelty, ill-treatment or non-payment of wages, to summon such master or employer to appear before him or them at a reasonable time to be stated in such summons, and he or they or some other Justice or Justices shall, upon proof on oath, of the personal service of such summons, examine into the matter of such complaint, whether such master or employer shall appear or not, and upon due proof of the cause of complaint, he or they may discharge such servant or labourer from his service or employment, and direct the payment to him of any wages found to be due, not exceeding the sum of ten pounds, and the said Justice or Justices shall and may make such order for payment of the said wages as to him or them shall seem just and reasonable with costs, and in case of non-payment of the same, together with the costs, for the space of twenty-one days after such order shall have been made, it shall and may be lawful for such Justice or Justices to issue his or their warrant of distress for the levying of such wages, together with the costs of conviction and of such distress.

IX. And be it enacted, That any person who shall think himself aggrieved by any such conviction or order for the payment of wages, or order for the dismissal from service or employment, may appeal to the next Court of General Quarter Sessions, which shall be holden not less than twelve

days after the day of such conviction or order for the District wherein the conviction or order shall be had; Provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof within three days after such conviction, and seven clear days at the least before such Sessions, and shall also, in the case of such conviction, either remain in custody until the Sessions, or enter into a recognizance, with two sufficient sureties before a Justice of the Peace, and in the case of such order shall enter into a like recognizance conditioned personally to appear at the said Sessions, and to try such appeal and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance being entered into, the Justice before whom the same shall be entered into, shall liberate such person if in custody; and the Court at such Sessions shall hear and determine the matter of the appeal, and shall make such order therein with or without costs to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction; or enforce the order for payment of wages or of dismissal from service, and to pay such costs as shall be awarded, and shall, if necessary, issue process for carrying such judgment into effect.

X. And be it enacted, That the word “party” whenever it occurs in this Act, shall include any person or persons, body or bodies politic or corporate, and that all words importing the singular number or the masculine gender only, shall include several persons, matters or things of the same kind as well as one person, matter or thing, and females as well as males, unless there be something in the subject or context inconsistent with such interpretation.

XI. And be it enacted, That this Act shall apply to that part of this Province which formerly constituted the Province of Upper Canada.