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B I L L .

AN ACT relating to Masters and Apprentices in Upper Canada, and to define their respective Rights and Duties.

Received and read 1st time, Tuesday, 3rd June,
1851.

Second reading, Friday, 6th June, 1851.

HON. SAMUEL MILLS.

(250 Copies.)

B I L L .

An Act relating to Masters and Apprentices in Upper Canada, and to define their respective Rights and Duties.

WHEREAS divers Statutes passed in England regu- Preamble.
lating the respective duties of Master and Apprentice,
do not extend to and are not in force within that portion
of this Province formerly known as Upper Canada: And
5 whereas the Law of England in that behalf is unsuited to
the wants of the said portion of this Province: And
whereas numbers of destitute persons have hitherto
emigrated are now emigrating and are expected here-
after to emigrate to the said portion of this Province:
10 And whereas the children of such persons, and many
others in the said portion of this Province, owing to the
death, desertion or poverty of their parents and relations,
are without any proper means of support: And whereas
the sufferings of such persons might be removed or
15 alleviated, and the community in general benefited, if
such persons could be in some simple manner effectually
bound apprentice to persons capable of taking apprentices,
and willing to take them as such; but such persons who
would be otherwise willing, are now deterred from doing
20 so, because no adequate protection is afforded their
interests, nor will the law compel such Apprentices to
abide by or perform the condition of their apprenticeship,
though ever so reasonable: And whereas it would be for
the benefit of the inhabitants of the said portion of this
25 Province in general, and that class thereof in particular
who now are, or hereafter may be, engaged in some
trade, manufacture or mystery, and who occupy, or
may hereafter occupy, the relative positions of Mas-
ter and Apprentice, that their respective rights and
30 duties in that behalf should be ascertained and
defined by one general law; for remedy thereof,
Be it therefore enacted by the Queen's Most Ex-
cellent Majesty, by and with the advice and consent of

All persons,
firms and cor-
porations may

take Appren-
tices.

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, intituled, "An Act to Re-unite the Provinces of 5
"Upper and Lower Canada, and for the Government of
"Canada;" and it is hereby enacted by the authority of the same, that it shall be lawful for all corporate bodies, firms or co partnerships, and and for all and every person or persons to take and have an Apprentice or Apprentices: 10
Provided always, such body corporate, firm or co-partnership, person or persons, are engaged in some trade, business, manufacture or mystery, or in agriculture, or some branch thereof, and take and employ and instruct the person taken as apprentice, as such apprentice, during 15
such apprenticeship, in such trade, business, manufacture or mystery, or in agriculture or some branch thereof.

Proviso.

Who may be
bound Ap-
prentices.

II.—And be it enacted, That any person of any age may, subject to the conditions and regulations hereafter mentioned, become and be bound Apprentice to any body 20
corporate, firm or co-partnership, person or persons capable of taking or having an Apprentice or Apprentices.

Apprentice-
ship must be
by Indenture
before two wit-
nesses, and
shall be valid
only for five
years, or during
minority

III.—And be it enacted, That no Apprenticeship shall be valid or of any force or effect whatsoever, unless the same be by Indenture, witnessed by at least two credible 25
witnesses, whose names shall be subscribed as such witnesses thereto, and which Indenture shall contain the terms and conditions of Apprenticeship, and the duration thereof; and if such Apprenticeship be for any longer 30
period than during the minority of such Apprentice, or for the period of five years, if the term of such apprenticeship shall exceed such minority, it shall, so far as regards such excess, but no further, be utterly void, both at law and in equity.

Who may
bind them-
selves as Ap-
prentices.

IV.—And be it enacted, That any person of sane mind 35
above the age of Twenty-one years, shall, with or without the consent of any other person or persons first obtained, have full power and capacity to become and to bind himself Apprentice: Also, any person of sane mind, 40
of the age of sixteen years or more, whose father is dead, and who has no legal guardian willing to act as such, or whose father is not domiciled in the said portion of this Province, and does not provide proper sustenance and support for such minor, shall have the like power of becoming and binding himself apprentice. Also, any person of 45

sane mind, of the age of sixteen years, or more, abandoned by his father, and who shall have been supported, entirely by his own exertions for the space of one year or more next before the term of his apprenticeship, shall have the like power of becoming and binding himself apprentice ; also, any person of sane mind, of the age of sixteen years or more, whose father shall be incompetent, shall have the like power of becoming and binding himself apprentice.

10 V —And be it enacted, That in all other cases, except those coming within and provided for by the sixth section of this Act, where any minor shall be taken and shall bind himself apprentice, it shall be necessary that the consent, in writing to such apprenticeship of the father of such
15 minor, if alive, and competent, be first obtained, but if dead, or incompetent, then the like consent of the legal guardian, if any, of such minor, if no such guardian, but the father shall, by his last will, duly executed, have directed any person or persons to apprentice such minor, the like
20 consent of such person or persons, but if such father shall be dead, or incompetent, and there be no such guardian, and no such persons shall have been appointed by such will, or if such guardian or such persons shall refuse to act, then it shall be necessary previously to executing the Indenture of
25 apprenticeship to obtain and endorse thereon the certificate of the Mayor, Recorder, or Police Magistrate of the town or city wherein the party taking the apprentice shall reside, if such party shall reside in a town or city, otherwise the certificate of some Justice of the Peace, the
30 certificate to state such Mayor's Recorder's, Police Magistrate's or Justice of the Peace (as the case may be) approval of the apprenticeship, and the terms thereof, and be signed with the proper signature of the person granting the same, and in default of such consent or certificate
35 as the case may be, such apprenticeship shall be liable to be avoided by such father, guardian, or person appointed by will, during the minority of the apprentice, and until they shall assent to such apprenticeship, and by such apprentice, at any time during his minority, and within one
40 month after such apprentice shall arrive at the age of twenty-one years, provided always that whenever such father, guardian, or other person appointed by will to apprentice such minor as aforesaid, shall join in the Indenture of apprenticeship, no further or other consent
45 in writing, by them, shall be required.

Apprenticeship voidable by father or guardian, or person appointed by father's will, or in case of their refusal to act, of the Mayor, Recorder, or Police Magistrate, if entered into without his or their consent.

VI.—And be it enacted, that if such father be incom-

Consent of mother or of

relations of the minor sufficient in certain cases — apprenticeship in such cases without her or their consent voidable.

petent, or be dead without leaving any such will, or if the persons appointed thereby be dead, or unwilling to act, and such minor have no legal guardian willing to act as such, and have not arrived at the age of sixteen years, then if such minor shall be living with, and supported by his mother, or if not living with and supported by his mother, then if such minor shall be living with, and supported by any of his relations, or if not living with, and supported by any of his relatives, then if such minor shall be living with, and supported by any other person to whom he is not apprenticed, then, previous to any such minor being taken, or binding himself apprentice, it shall be necessary to obtain from such mother, or relation, or other person, as the case may be, the like consent as would be required by the fifth section of this Act, from such minor's father, if alive, and in default thereof, such apprenticeship shall be voidable by the mother or relation, or other person, as the case may be, and by the minor, to the like extent as for the like default it would have been by the father, if alive, and by such minor, by the fifth section of this Act.

Minor may be apprenticed by his father or guardian for any period not exceeding his minority, without his own concurrence or consent.

VII.—And be it enacted, That such father, if competent, or legal guardian, or person directed by the last will of such father of any minor to apprentice him, may, without such minor's joining in the Indenture of apprenticeship, or consenting thereto, apprentice such minor by Indenture, similar to that mentioned in the third section of this Act, for any period not to exceed his minority.

Minor may be so apprenticed by his mother, without his own concurrence or consent,—subject to approval by Mayor, Recorder, Police Magistrate or Justice of the Peace.

VIII.—And be it enacted, That if such father be incompetent, or dead, and no such guardian or person directed by such last will, be in existence, the mother of any minor, who at the time of apprenticeship of such minor, shall be supporting, and shall have previously supported such minor, shall have the like power of binding such minor apprentice without such minors joining in the indenture of apprenticeship, or consenting thereto, as the father, if alive, and competent, would have had by the next preceding section of this Act, provided always that previous to the execution of such indenture of apprenticeship, it shall be necessary to obtain and endorse thereon the Certificate of the Mayor, Recorder, or Police Magistrate of the Town or City, if the parties shall reside therein, otherwise of some Justice of the Peace, which certificate shall state his approval of the apprenticeship, and the terms thereof, and be signed with the proper signature of the person granting the same; and in

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default of such certificate such apprenticeship shall be voidable by such minor.

IX. And be it enacted, That in all cases when the father of such minor shall be dead or incompetent, without appointing by will any guardian or executor, or person directed to apprentice such minor, or, having appointed such, they are unwilling to act, and when the mother of such minor is also dead, or if not dead, has not supported, and does not support such minor, as in the next preceding section mentioned, and where also there shall be no existing acting guardian of such minor, then, but not until the failure or unwillingness to act of all the persons standing *in loco parentis* in this section above mentioned, any person or persons, or charitable or other society or institution, who or which at the time of the apprenticeship of such minor shall be supporting, and for some time previous shall have supported such minor, shall have the same power to apprentice such minor, without his joining in the indenture of apprenticeship, or assenting to such apprenticeship, as the mother of such minor would have had by the next preceding section of this Act, subject to the same conditions and provisoes.

In default of any person standing *in loco parentis* to minor, he may be apprenticed by any other person, or by any society or institution, in the same way as by his mother.

X. And be it enacted, That if at the time of apprenticeship any Justice of the Peace or Police Magistrate shall certify in writing on the back of the indenture of apprenticeship, under his hand, that such apprentice is then of any particular age, such certificate shall ever after, as regards such apprenticeship, be taken as conclusive evidence of the fact that such apprentice was then of the age mentioned in such certificate. Provided always nevertheless, that no Justice of the Peace or Police Magistrate shall so certify, unless and until he shall have satisfied himself, by examination on oath of some person or persons likely to know, or in some other manner by which the truth can be most probably ascertained, that the age so certified is the then correct age of such apprentice: And provided also, that any wilful false swearing in that behalf, shall be deemed perjury, and be punished as such.

Magistrate's certificate endorsed on indenture to be conclusive evidence of age of minor.

Proviso.

XI.—And be it enacted, That for all purposes of this Act, the father of any illegitimate child, being a minor about to be apprenticed, who shall not, at and previously to apprenticeship of such child, have supported such child, shall be deemed incompetent; also, if the father

In what cases the father of a minor shall be incompetent to apprentice him under this Act

of any minor be not of disposing mind, or be convicted of any crime of the degree of felony, or been condemned to the Provincial Penitentiary, or have totally abandoned such minor, such father shall be deemed equally incompetent.

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Contents of indenture of apprenticeship.

Apprentice entitled to copy, &c.

Penalty for refusing copy, or giving false copy.

XII.—And be it enacted, That the indenture of apprenticeship shall contain two or more parties executing the same, and either or any party thereto may consist or be composed of one or more persons, or of any corporate body, firm or co-partnership, or society or institution; and every apprentice shall have the right to demand and have from his master or masters, at any time, a copy of his indentures, by paying therefor previous to delivery of such copy, at the rate of four-pence per folio of one hundred words; which copy shall be considered conclusive evidence, as against such master or masters, without producing or accounting for the original in any way; and if such master shall wilfully refuse or neglect to give such copy, or shall give any writing professing to be such copy, but which shall be untrue in any material part, such master shall forfeit the sum of thirty pounds, to be recovered in an action of debt by any of the parties to the indenture of apprenticeship, or in case of their death by their executors or administrators; Provided such action be commenced within one year after the cause of action shall accrue.

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On death of Master, Apprentice shall be transferred to party continuing his establishment or assigned by Mayor, &c., to some other party.

XIII. And be it enacted, That if any master of any apprentice shall die, such apprentice shall by act of law without more, be transferred to the party, if any such there be, who shall continue the establishment of the deceased master, and such party shall hold such apprentice upon the same terms in all respects as his master, if alive, would have done; but if such master be dead, leaving no such party, or if such master shall become bankrupt, or leave his business and employment, or become insane, or be convicted of any crime of the degree of felony, or be condemned to the Provincial Penitentiary, or have absconded, it shall be lawful for the apprentice to leave such master; and in such case such apprentice may be apprenticed or assigned to any other party capable of taking an apprentice or apprentices; which assignment any Justice of the Peace, Mayor, or Police Magistrate is, upon proof of the circumstances, authorised to make, whether such master shall consent to such assignment or otherwise.

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XIV. And be it enacted, That by and with the consent of all the parties (or if any be dead, their executors or administrators) to the indenture of apprenticeship, any master may at any time during the apprenticeship, assign
 5 any apprentice, together with the interest of such master in such indenture, to any party capable of taking an apprentice, and who is willing to take such apprentice, so as such assignment be by indenture, executed by the master assigning and the party taking such apprentice;
 10 also, any indenture of apprenticeship may, by consent of all the parties thereto, be at any time cancelled.

Assignment of Apprentice by Master.

XV.—And be it enacted, That if any Apprentice shall become insane, or be convicted of any crime of the degree of felony, or be condemned to the Provincial
 15 Penitentiary, or abscond, his Master may avoid the indenture of apprenticeship, from the time he shall give notice in writing of his intention so to do to the other parties to the indenture, either by serving them with such notice or copy thereof, or by inserting the same in
 20 some newspaper of the county or city where such Master's establishment is situated, or in the *Canada Gazette*: Provided always, such Master make such election within one month after the happening of the event upon which such right of election arises, but not otherwise.

Indenture of Apprentice becoming insane, &c., how avoided.

Proviso.

25 XVI.—And be it enacted, That every Master of any Apprentice shall procure and provide for such Apprentice board, washing, lodging and clothes suitable for such Apprentice, or its equivalent in money, without regard
 30 to the terms or conditions of the indenture of apprenticeship, saving however to such Master his remedy over against the parties, if any, who should have supplied the same.

Apprentice to be boarded, lodged, clothed, &c., by Master.

XVII.—And be it enacted, That if the Master of any Apprentice shall die during his apprenticeship, and such
 35 Apprentice shall not be assigned to some person or party by operation of law or otherwise, the personal representative of such Master shall not be compelled to procure or provide for such Apprentice the board, washing, lodging and clothes, or its equivalent in money, as
 40 required by the next preceding Section of this Act, for or during any longer time than three calendar months next after the death of such Master, and during such three calendar months, such Apprentice shall continue to live with and serve as an Apprentice such personal
 45 representative, or some or one of them, or such person

And by his personal representatives, for three months after his death.

Proviso.

as they or some of them shall appoint: Provided always, that if before the expiration of such three calendar months, such Apprentice shall be duly assigned to some person or party, such provision by such personal representatives and service by the Apprentice shall immediately cease. 5

Remedy for Apprentice in case of Master, &c., not providing for him as above required.

XVIII.—And be it enacted, That if any Master of any Apprentice shall during the term of apprenticeship, or if the executors or administrators of such Master, any or either of them having assets, shall during such three 10 calendar months as aforesaid, refuse or neglect to maintain and provide for any such Apprentice according to the terms, true intent and meaning, of the Sixteenth Section of this Act, it shall and may be lawful for any Justice of the Peace, or Police Magistrate of the County, 15 City, Town or Place to which such Apprentice shall belong, or where such Master shall reside, on complaint of such Apprentice, or some person acting in his behalf, such complaint to be made on oath, to hear and determine the matter of complaint, and direct such Master to pay 20 forthwith to such Apprentice such amount as they shall think justly due, together with the costs of such proceeding; and if such Master shall make default in payment thereof, by warrant under their hands and seals to levy such amount and such costs by distress and sale of the 25 personal estate and effects or assets of such Master; and if the same shall be deficient for that purpose, to commit such Master to the Common Jail of such County, City, Town or place, there to be confined with or without hard labour for any time not to exceed three calendar months: 30

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Provided always that such Master shall be entitled to be discharged, upon payment to the Keeper of such Jail of such amount found due, and all costs.

Remedy for Master in case of Apprentice absenting himself without leave.

XIX.—And be it enacted, That if any Apprentice shall without leave absent himself from his Master's service, 35 before the term of his apprenticeship shall have expired, every such Apprentice shall, at any time or times thereafter, whenever he shall be found, be compelled to serve his said Master for so long a time as he shall have absented himself from such service, unless he shall make 40 satisfaction to his Master for the loss he shall have sustained by his absence from his service, and so from time to time, as often as any such Apprentice shall without leave of his Master absent himself from his service before the time of his contract shall be fulfilled; and in case any 45 such Apprentice shall refuse to serve as hereby required, or to make such satisfaction to his Master, such Master

may complain upon oath to any Justice of the Peace, or Police Magistrate of the City, County, Town or Place where he shall reside, which oath such Justice of the Peace or Police Magistrate is hereby empowered to
 5 administer and to issue a warrant under his hand and seal, for apprehending any such Apprentice, and such Justice upon hearing the complaint, may determine what satisfaction shall be made to such Master by such Apprentice, and in case such Apprentice shall not give
 10 sufficient security to make such satisfaction according to such determination, it shall and may be lawful for such Justice of the Peace or Police Magistrate to commit every such Apprentice to the Common Jail of such County, City, Town, or Place, for any time not exceeding
 15 three calendar months, there to be confined with or or without hard labour: Provided always that where such Apprentice shall not have left that portion of this Province formerly known as Upper Canada, or having left shall have returned thereto, such Master cannot
 20 proceed under this Act against such Apprentice, except within three years next after the expiration of the term for which such Apprentice shall have contracted to serve, or next after such his return as the case may be.

XX.—And be it enacted, That it shall be lawful to and
 25 for any Justice of the Peace or Police Magistrate upon complaint on oath by any Apprentice or other person, touching or concerning any misuse, cruelty, or other ill-treatment of or toward such Apprentice by his Master, to summon or to cause such Master to appear before such
 30 or any Justice of the Peace or Police Magistrate, who shall and may examine into the matter of such complaint, and upon proof thereof made upon oath to his satisfaction, (whether the Master be present or not, provided service of the summons or warrant be also upon oath
 35 proved,) adjudicate thereon as the justice of the case may require.

Jurisdiction given to Magistrates in cases of complaint by Apprentice of ill-treatment.

XXI.—And be it enacted, That it shall be lawful to and for any Justice of the Peace or Police Magistrate, upon complaint made upon oath by any Master, against
 40 such Apprentice, touching or concerning such Apprentice having absconded from such Master, or touching or concerning any misdemeanour, miscarriage, or ill-behaviour of such Apprentice in his service, to issue his warrant for the apprehension of such Apprentice, to
 45 answer to such charge, and upon his being brought before him, to examine into the matter of complaint, and upon

And also in case of complaint by Master against Apprentice for absconding or misbehaving.

Proviso. satisfactory proof thereof to be given on oath, to adjudicate thereon as the justice of the case may require: Provided nevertheless, that such Justice of the Peace or Police Magistrate shall not commit such Apprentice to any Jail for any longer time than one calendar month, with or 5 without hard labour.

Master, &c. may not act as Magistrate. XXII.—And be it enacted, That no Justice of the Peace, or Police Magistrate, being the Master of such Apprentice, or the partner, father, brother, or son of such Master, shall act as Justice of the Peace, or Police Magis- 10 trate under this Act.

What Magistrate qualified to act in certain cases. XXIII.—And be it enacted, That in any county, city, town, or place where the Magistrates for the time being are disqualified by the next preceding section from administering this Act, then, in every such case, and so 15 often as the same shall happen, it may be lawful for the adjoining Magistrate, or Magistrates, who are not disqualified, to administer, and they, or any of them, are hereby authorised and empowered to hear, examine, and determine any offences against the provisions of this Act, 20 and do all Acts relating thereto in the same manner, and to the same extent as the disqualified Magistrates, except for such disqualification, might have done.

Name of repute sufficient in indictment, &c. XXIV.—And be it enacted, That it shall not be deemed necessary in any indictment, information, summons or 25 warrant issued against any person or party, for any offence against the provisions of this Act, to set forth the name or other designation of each and every of the partners in any firm or co-partnership, or individuals in any corporate body, society, or institution; but it shall be 30 sufficient to insert therein the name, style, or title by which such firm or co-partnership, body corporate, society, or institution, is generally known.

What service or warrant good. XXV.—And be it enacted, That the service of any summons or warrant on any of the proprietors, or the 35 principal conductor, manager, or agent, of any such firm, co-partnership, body corporate, society, or institution, shall be good and lawful service.

Constable may apprehend offender against this Act any where in U. Canada. XXVI.—And be it enacted, That if any Justice of the Peace or Police Magistrate shall, by virtue of this Act, 40 issue a warrant for the apprehension of any person for any offence against such Act, and such person shall, within ten days before or after the granting of such

warrant, have departed from and left the jurisdiction of such Justice of the Peace or Police Magistrate, the Constable to whom such warrant is directed shall be justified by such warrant in following such person to, and apprehending him in any part of this Province which formerly composed Upper Canada, and removing and taking him from thence to and before the person issuing such warrant, then and there to be dealt with according to law.

XXVII.—And be it enacted, That if any person shall entice any Apprentice to leave his Master, such person shall forfeit the sum of twenty-five pounds, to be recovered by the party aggrieved, his executors or administrators, but by no others, in an action of debt in any Court of Record in this Province; or if any person shall prevail on such Apprentice to leave his Master, and he shall do so, or after he has left, shall, during his apprenticeship, knowingly employ such Apprentice, the party grieved, his executors or administrators, may maintain an action on the case against such person, and receive from him such amount as a jury shall think reasonable under the circumstances.

Penalty for enticing Apprentice away from his Master.

XXVIII.—And be it enacted, That the provisions of a certain Act of the Parliament of this Province, passed in the Session thereof held in the thirteenth and fourteenth years of the reign of our Sovereign Lady Queen Victoria, intituled, "An Act to extend the right of appeal in certain cases in Upper Canada," shall be held to extend and apply to all cases arising under this Act, or having any reference thereto.

Provisions of 13 and 14 Vic. c. 54, to apply to cases under this Act.

XXIX.—And be it enacted, That nothing in this Act shall be construed to deprive the Court of Quarter Sessions of primary jurisdiction over offences committed against this Act, but that whenever the said Court of Quarter Sessions shall be called upon to adjudicate in any matter or case arising under this Act, in addition to the powers now possessed by such Court, it shall have power and discretion in cases when it shall appear necessary for the full and perfect administration of justice to annul any apprenticeship, and compel the parties to the indenture of apprenticeship to deliver the same up to be cancelled, and make such further order as the circumstances may require.

Powers of Court of Quarter Sessions under this Act.

XXX.—And be it enacted, That whenever it will conduce to extend the application of the various provisions of this Act, and more fully carry out its spirit, all words used therein, and importing the masculine gender, shall

Interpretation of words of gender and number.

be construed to extend equally to the feminine, and *vice versa* ; and all words importing the singular number shall be construed to extend equally to the plural, and *vice versa*.

Limitation of penalties and terms of imprisonment.

Proviso.

XXXI.—And be it enacted, That in all cases where the penalty to be imposed for any offence against the provisions of this Act, or any part thereof, is not limited by the foregoing sections of this Act, no greater fine shall be imposed than the sum of Five Pounds ; nor shall any person be imprisoned for a longer period than Two Calendar Months : Provided always that nothing in this Act shall be construed to limit the power of the Court of Quarter Sessions, or any of the Superior Courts of Common Law as to inflicting penalties.

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