

No. XXIX.

AGREEMENTS
VALIDATING.

An Act to remove doubts as to the validity of Agreements made elsewhere for personal service in New South Wales. [25th April, 1876.]

Preamble.

WHEREAS doubts have arisen as to the validity in the Colony of New South Wales of Agreements for hiring and service made or entered into by persons elsewhere than in the said Colony but intended to take effect within the said Colony and it is expedient to remove the said doubts and also to simplify the proofs respecting the making of such agreements Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Contracts made out
of the Colony to be
valid within the
Colony.

1. Every contract or agreement made in any place beyond the Colony of New South Wales between any persons for any personal services to be rendered or performed within the said Colony for and during any period not exceeding two years from the arrival in the said Colony of the person by whom such services are to be rendered or performed or for any period not exceeding two years and three months from the date of such agreement shall be as valid binding and effectual between the parties and shall be upheld and maintained in all Courts of Justice within the said Colony in the same manner and to the same extent as if the said contract or agreement had been duly made and entered into in the said Colony Provided that such contract or agreement shall be made and subscribed in the presence of some officer duly authorized in that behalf by the Governor and Executive Council of New South Wales and shall be attested by such officer and shall have thereon his certificate in the form or to the effect of the Schedule annexed to this Act And such officer shall in all cases where any such agreement shall be made or entered into by any person as agent for or

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Agreements Validating.

on behalf of any other person be bound to ascertain that such person so signing as such agent was duly authorized so to do and the certificate of such officer shall be conclusive evidence of such agency.

2. It shall not be necessary in any manner to prove in evidence the signature of the said officer to the said certificate if it purports to have been given by him as such duly authorized officer. Signature of officer need not be proved.

3. The production of an agreement so attested as aforesaid and having thereon such certificate as aforesaid in any Court of Justice within the said Colony and proof to the satisfaction of the Court that the complainant or defendant (as the case may be) disputing the authenticity of such agreement was known at any time since the date of the same agreement by the name and designation appearing on the face thereof shall be deemed and held to be *prima facie* evidence that he is the person mentioned therein and that he duly executed the same. The Certificate to be *prima facie* evidence that the parties respectively executed it.

4. It shall not be essential to the validity of any such contract or agreement that it should be either stamped or sealed (unless a corporation be a contracting party) notwithstanding that all such written instruments are required by the law of the land in which such contract or agreement was made to be stamped or sealed or both before they can be put in evidence in a Court of Justice. Agreements need not be stamped or sealed.

5. On the demand of either party to any such agreement as aforesaid made out of the Colony the other party thereto shall re-execute the same at any time after his arrival within the said Colony and in case he shall refuse or neglect so to do he shall be liable to a penalty not exceeding twenty pounds which penalty shall be paid to the party laying the complaint Provided always that the imposition or satisfaction of the said penalty shall not in any manner be deemed to have annulled or otherwise to have affected the said agreement. Parties compellable to re-execute agreements made out of the Colony.

6. All complaints or other legal proceedings taken for the breach of any such agreement as aforesaid or of any of the provisions of this Act (excepting prosecutions for any or either of the offences mentioned in the ninth section of this Act) may be heard and determined in a summary way before any two Justices according to the provisions of the Act fourteenth Victoria number forty-three and the English statutes thereby adopted And any summons or other legal document may be served upon either party personally or by delivering the same to any person being apparently above the age of fourteen years resident at the last-known place of abode of the person named in such summons or other legal document. Complaints may be heard before two Justices. Service of summons &c.

7. Any person feeling himself aggrieved by any judgment order or conviction under the authority of this Act where the order or penalty exceeds five pounds may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter arose unless such Quarter Sessions shall be held within fourteen days from the date of such conviction or judgment and in that case to the Court of Quarter Sessions then next following And such Court shall have power to hear and determine the matter in a summary way and shall have and exercise all other powers vested in them by the third section of the Act fifth William the Fourth number twenty-two and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal and stating the grounds thereof to any one of the adjudicating Justices and to the complainant and provided also that such person (in case a penalty shall have been awarded or an order made against him) shall pay into the hands of the adjudicating Justices the full amount thereof together with the costs awarded within one week next after adjudication and shall within the same period enter into a bond with

Consolidated Revenue Fund (No. 4).

with two sureties approved by such Justices conditioned to prosecute such appeal with effect and to abide the event of such appeal and to pay the full amount of all such costs as may on such appeal be awarded against him.

Convictions &c. not
to be quashed for
want of form.

8. No conviction nor any other proceeding matter or thing done or transacted in relation to the execution of this Act shall be vacated quashed or set aside for want of form nor be removable by *certiorari* or otherwise into the Supreme Court.

Penalties &c.

9. Whosoever shall forge or alter or shall offer utter dispose of or put off knowing the same to be forged or altered any certificate under this Act or any certificate purporting to be a certificate given by an officer duly authorized by the Governor and Executive Council of the said colony to sign certificates under this Act shall be guilty of felony and being convicted thereof shall be liable at the discretion of the Court to be kept to hard labour on the roads or other public works of the said colony for any term not exceeding five years and not less than three years or to be imprisoned for any term not exceeding two years.

Short title and com-
mencement of Act.

10. This Act may be cited as the "Agreements Validating Act" and shall come into operation immediately after the passing thereof.

SCHEDULE.

I HEREBY certify that the above contract was made and subscribed by the parties in my presence And I further certify that previous thereto I fully informed the said
(the contracting party of the second part) of the current rate of wages for persons of his trade or calling and of the current prices within the Colony of New South Wales for house-rent food and clothing according to the latest advices received by me from the Agent General of New South Wales [*or other officer duly authorized in that behalf by the Governor and Executive Council of the said Colony*]

And I further certify that the said
(the contracting party of the second part) declared in my presence that he fully understood the terms and conditions of the said contract And I further certify that I am duly authorized by the Governor and Executive Council of New South Wales to grant this certificate.

Given under my hand at *[insert the town*
county and country thus: at Portsmouth in the County of Hampshire
England] this day of 187 .

A.B.
(Add name of office &c.)
