

Apprentices.

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An act respecting apprentices and servants.

Rev. 366, 669.
P. L. 1843-4, p. 233.
R. S. 370.

Revision—Approved April 10, 1846.

1. That if any male person within the age of twenty-one years, or any female person within the age of eighteen years, shall be bound by indenture, of his or her own free will and accord, and by and with the consent of his or her father, or in case of the death of his or her father, by and with the consent of his or her mother or guardian, to be expressed in such indenture, and signified by such parent or guardian sealing and signing the same indenture, and not otherwise, (a) to serve as a clerk, apprentice or servant, in any art, craft, mystery, science, profession, trade, employment, manual occupation or labor, until, if a male, he arrive to the age of twenty-one years, and if a female, until she arrive to the age of eighteen years, or for any shorter time, then the said clerk, apprentice or servant so bound as aforesaid, shall serve accordingly. (1) See Sec. 15.

Minors, how bound by indenture.

2. That the age of every infant, who shall be bound to serve as a clerk, apprentice or servant, according to the preceding section, shall be mentioned and inserted in his or her indentures, but such entries shall not be conclusive as to the age of such infant, and the true age of such infant may be inquired into and given in evidence in any court or before any magistrate, when the same shall or may come in question; and in case any infant shall be bound to serve beyond the time at which said infant, if a male, shall have arrived at the age of twenty-one years, or if a female, at the age of eighteen years, the said indenture shall be void as against such infant, so far as the age inserted in said indenture shall exceed the age aforesaid; *provided*, that nothing in this section shall in any way impair the obligation of any covenant entered into by the parent or guardian of such infant, as to the age or time of service of such infant, nor shall it impair or affect any contracts or indentures made with foreigners to serve for a term of years. (b)

Age to be mentioned therein.

3. That all indentures, covenants, promises and bargains of or for the having, taking or keeping of any clerk, apprentice or servant, hereafter to be made or taken otherwise than by this act, or by any act authorizing overseers of the poor and justices of the peace to bind out children in certain cases, is limited and prescribed, shall be utterly void in law, as against such clerk, apprentice or servant only.

Proviso.

Indentures contrary to this act void.

(a) The apprentice is not bound unless he sign the indenture, *Lyon v. Whitmore, Pen. *845; Stokes v. Hatcher, 1 South. *86 (a)*, and seal it, *Hopewell v. Amwell, 1 Hal. 169. North Brunswick v. Franklin, 1 Har. 535*. The indenture need not state in express words that the binding was of the minor's own free will and accord. *Fisher v. Langer, 4 Vr. 100*.

The apprentice is bound if his signing be proved, without proving the signing of his master. *Kingwood v. Bethlehem, 1 Gr. 222*. *Aliter* as to the father, *Lyon v. Whitmore, Pen. *845*, but see *Taylor v. Hutchinson, Pen. *952*; or guardian, *Woodruff v. Corey, Pen. *540*; or person hiring, *Stokes v. Hatcher, 1 South. *84*.

The person hiring the apprentice is bound after the services

are rendered, although the assignment of the indenture was by parol. *Middleton v. Taylor, Coxe 445*.

Parent cannot sue master for services of minor after signing the indenture. *Mead v. Morrison, Pen. *725*. Recovery may be had as soon as there is a breach of any of the covenants. *Stokes v. Hatcher, 1 South. *84*.

An indenture valid in the state where executed will be enforced in this state if not against public policy. *Petrie v. Voorhees, 3 C. E. Gr. 285*.

(b) An indenture binding a foreigner, signed by the father only, and stating the year but not the day or month of his birth, held good. *The State v. Taylor, Pen. *467*.

(1) Binding by indenture, mentioned in section 1, may be made by managers of the house of refuge, incorporated by state of Pennsylvania, and bindings theretofore made, legalized. Act of March 15th, 1859, *P. L. p. 251*. May be made by managers of northern home for friendless children, incorporated by state of Pennsylvania, and bindings theretofore made, legalized. Act of March 19th, 1862, *P. L. p. 254*. May be made by managers of the society for the reformation of juvenile delinquents, incorporated by state of New York, and bindings theretofore made, legalized. Act of April 7th, 1864, *P. L. p. 660*.

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Deed need not be indented.

4. That no deed, contract, agreement or writing whatsoever, made or to be made for binding any person as a clerk, apprentice or servant as aforesaid, shall be deemed to be void and of no effect by reason of such deed, contract, agreement or writing not being indented only.

Remedies of master and apprentice.

5. That if any master or mistress shall be guilty of any misuse, refusal of necessary provision or clothing, unreasonable correction, cruelty or other ill treatment, so that his or her said clerk, apprentice or servant shall have any just cause to complain, or if the said clerk, apprentice or servant shall absent himself or herself from the service of his or her master or mistress, or be guilty of any misdemeanor, miscarriage or ill behavior, or do not his or her duty to his or her master or mistress, then the said master or mistress, (a) or the said clerk, apprentice or servant, being aggrieved, and having just cause of complaint, shall repair to one justice of the peace, within the county where the said master or mistress dwells, who shall, in his wisdom and discretion, take such order and direction between such master or mistress, and his or her clerk, apprentice or servant, as the equity of the case shall require; and if the said justice of the peace cannot compound or agree the matter between such master or mistress, and his or her clerk, apprentice or servant, then the said justice shall call to his assistance two other justices of the peace of the said county, unconnected with either of the said parties; which three justices, when met, shall constitute a court for the hearing of the said matters in difference, and having heard the same, shall have authority to discharge, if they think proper, by writing, under their hands and seals, or the hands and seals of any two of them, the said clerk, apprentice or servant, of and from his or her clerkship, apprenticeship, or service, and to order such part or proportion of the money as shall have been given, paid, contracted, or agreed for, with or in relation to such clerk, apprentice, or servant, as they shall think just and reasonable, to be refunded or paid back to the person who paid the same, his or her executors or administrators, or to be deducted, as the case may require; and such writing as aforesaid, shall be a sufficient discharge for the said clerk, apprentice or servant, against his or her master or mistress and his or her executors and administrators, the said indenture or any law to the contrary notwithstanding; and if the default shall be found to be in the clerk, apprentice or servant, then the said court shall cause such due correction or punishment to be administered unto him or her as they shall deem to be just and reasonable; and if any person shall think himself or herself aggrieved by such adjudication of the said justices, he or she may appeal to the next court of general quarter sessions of the peace, in and for the county where such adjudication shall have been made, such person giving six days' notice of his or her intention of bringing such appeal, and of the cause and matter thereof to the adverse party, and entering into a recognizance within three days after such notice, before some justice of the peace of the said county with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by the said court; which said court, at their said sessions, upon due proof, upon oath or affirmation of such notice being given, and of entering into such recognizance as aforesaid, shall be and hereby are empowered and directed to proceed in and hear and determine the cause and matter of such appeal, and give and award such judgment therein with costs, to either party, appellant or respondent, as they in their discretion shall judge proper and reasonable.

May make complaint.

Before whom case to be heard.
May discharge or punish apprentice.

Appeal.

Giving security.

Penalty for enticing apprentice away.

6. That every person, who shall counsel, persuade, entice, aid or assist any clerk, apprentice or servant to run away, or absent himself or herself from the service of his or her master or mistress, shall forfeit and pay the sum of thirty dollars, to be sued for and recovered by action of debt, with

(a) An order made on complaint of an apprentice's father, quashed. *Ackerman v. Taylor*, 4 Hal. 65. No costs allowed. *Vinck v. Whort*, Pen. *335.

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costs, by such master or mistress, in any court of record having cognizance thereof. (a)

7. That every person who shall entertain, harbor or conceal any clerk, apprentice or servant, knowing such clerk, apprentice or servant to have run away, shall forfeit and pay one dollar for every day's entertaining, harboring or concealing as aforesaid, to be sued for and recovered by action of debt, with costs, by such master or mistress, in any court of record having cognizance thereof. (b)

Penalty for harboring.

8. That whenever a male servant, above the age of twenty-one years, or a female servant, above the age of eighteen years, shall abscond from his or her master or mistress' service, or run away, it shall be lawful for such servant, when apprehended, to be taken by such master or mistress before three justices of the peace of the county where such master or mistress resides, who, upon the hearing of the whole matter, shall adjudge the said servant to serve any term, not exceeding double the time he or she so absented him or herself, besides paying or serving for all damages and costs, which such master or mistress shall be adjudged to have sustained by such unlawful absence or departure.

Penalty if servant absconds.

9. That every clerk, apprentice or servant, under the ages mentioned in the preceding section, who shall absent himself or herself from the service of his or her master or mistress, without leave first obtained, (c) or who shall run away, so that the said master or mistress shall be deprived of his or her service during the remainder of the term or any part thereof, for which he or she was bound to serve, then, and in such case, it shall be lawful for the master or mistress of such clerk, apprentice or servant, to have an action on the case, in any court having cognizance thereof, against such clerk, apprentice or servant for the damage that such master or mistress may have sustained by reason of the absence of such clerk, apprentice or servant; *provided*, such action shall be brought within the term of six years after such clerk, apprentice or servant shall arrive at full age.

Penalty if apprentice absconds.

10. That no writ of certiorari or other process, shall issue or be issuable, to remove into the supreme court, any proceedings had in pursuance of this act, before any justice or justices of the peace, or before any court of general quarter sessions of the peace. (d)

No certiorari allowed.

11. That no indenture made prior to the twelfth day of March, eighteen hundred and forty-four, shall be adjudged or held to be void, merely for that such indenture is made to several persons constituting a firm or copartnership, but that all such indentures, being in other respects legal, shall be deemed and held valid and effectual in law; *provided, nevertheless*, that nothing herein contained shall be so construed as to render valid any indenture of apprenticeship made to any incorporate company.

Indenture to copartners good, but not to corporation.

12. That in all cases of an indenture whereby an apprentice or servant was bound prior to the said twelfth day of March, eighteen hundred and forty-four, to serve several persons, constituting a firm or copartnership, and one or more of such persons shall die before the expiration of the term of apprenticeship or service mentioned in any such indenture, then that the covenants and agreements contained therein, on the part of the parent or guardian of such apprentice or servant, and on the part of such apprentice or servant, shall accrue and be performed to the survivors or survivor, and such survivors or survivor shall perform and fulfill to the apprentice or servant, all the covenants and agreements contained in any such indenture on the part of the persons to whom such apprentice shall be bound, to be performed, fulfilled and kept.

Surviving partners entitled to hold.

(a) An action for enticing, &c., will not lie when apprentice has not signed the indenture. *Lyon v. Whitmore*, Pen. *845. *Joins v. Norcross*, Pen. *977. What is a sufficient state of demand. *Tullman v. Woodward*, Pen. *258.

(b) Action for harboring, &c., will not lie when apprentice has not signed the indenture. *Lyon v. Whitmore*, Pen. *845. See *Fisher v. Lunger*, 4 Vr. 100. Master can elect to sue either on statute or on common-law liability in an action for harboring an apprentice. *Gould v. Trandt*, 15 N. J. Law Journal 23.

(c) A subsequent approval by the master of the apprentice's enlistment, held good. *State v. Brearley*, 2 South. *555. Sufficient averments in the state of demand. *Thorpe v. Rankin*, 4 Har. 36.

(d) Certiorari will lie if the proceedings are not "in pursuance of this act." *Tullman v. Woodward*, Pen. *258. *Punch v. Whort*, Pen. *336. *Ackerman v. Taylor*, 3 Hal. 288, 305, 4 Hal. 65.

Supplement.

Approved March 17, 1854.

P. L. 1854, p. 444.

Binding may be made to a firm or copartnership.

13. SEC. 1. That the binding by indenture mentioned in the first section of the act to which this is a supplement, may lawfully be made to two or more persons constituting a firm or copartnership; and all such indentures, if in other respects conformable to the provisions of said act, shall be deemed and held to be valid and effectual in law; *provided*, that nothing herein contained shall be so construed as to render valid any indenture of apprenticeship made to any incorporated company.

Indentures not affected by death of one of a firm.

14. SEC. 2. That in all cases of an indenture, whereby an apprentice or servant is or shall be bound to serve several persons, constituting a firm or copartnership, and one or more of such persons shall die before the expiration of the term of apprenticeship or service mentioned in any such indenture, then the covenants and agreements contained therein, on the part of the parent or guardian of such apprentice or servant, and on the part of such apprentice or servant, shall accrue and be performed to the survivors or survivor, and such survivors or survivor shall perform and fulfill to the apprentice or servant, all the covenants and agreements contained in any such indenture on the part of the persons to whom such apprentice shall be bound, to be performed, fulfilled and kept.

Supplement.

Approved February 15, 1871.

P. L. 1871, p. 13.

Consent of mother, if living, necessary to legality of indenture.

15. SEC. 1. That hereafter the binding by indenture mentioned in the first section of the act to which this is a further supplement, shall not be lawful without the consent of the mother, if living, to such indenture, signified by her signing and sealing the same.

An act to authorize citizens of this state to take apprentices bound to them outside of this state.

Approved March 17, 1875.

P. L. 1875, p. 29.

Citizens of this state authorized to take apprentices bound to them outside of this state.

16. SEC. 1. That citizens of this state may take and enter into indentures executed outside of this state whereby minors are bound to them to serve in this state, and that in all such cases parties binding said minors, and the masters or mistresses of said apprentices, shall be entitled to the same remedies against each other as if the said indentures had been duly executed in this state.

Arbitration and References.

1. Submission to arbitration may be made rule of court.
2. When and how award set aside.
3. Proceedings upon report made.
4. Referees to be sworn.
5. Process for witnesses' and referees' fees.
6. Arbitrators to be sworn.
7. Process for witnesses before arbitrators.
8. Employes may submit question of wages to arbitration.
9. Two arbitrators to elect a third.
10. Finding of arbitrators to be binding.
11. Costs of arbitration, by whom paid.
12. What grievances may be submitted to arbitration, under act of 1886.
13. Oath of arbitrators.
14. Arbitrators to select secretary and give notice of meeting.
15. Subpoenas for witnesses, how issued.
16. Procedure before board of arbitrators.
17. Board may make and enforce rules.
18. Decision of board, when to be rendered.
19. When power of board to cease.
20. Board to receive no compensation.
21. Repealer.
22. Board of arbitration under act of 1892.
23. Board, how approved and established.
24. Oath and power of arbitrators.
25. When decision of board to be rendered.
26. What grievances board may determine.
27. State board of arbitration to be formed.
28. Proceedings on appeal to state board.
29. Submission of grievances directly to state board.
30. State board to decide matters within what time.
31. Power in case of lock-outs.
32. Witness fees and subpoenas for witnesses.
33. Board to report annually to legislature.
34. Compensation of arbitrators and secretary.
35. Meaning of term "employer" or "employers."
36. Constitution and salary of state board.
37. How vacancies are to be filled.
38. Terms of members holding prior to 1895 terminated.
39. Successors of board appointed, how.