

VICTORIA.



ANNO DECIMO SEPTIMO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

No. VIII.

An Act to restrain the careless use of Fire. [Assented to 23rd February, 1854.]

WHEREAS the reckless and negligent use of Fire is attended with great danger and ought to be restrained Be it therefore enacted by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof as follows—

I. If any person shall except as hereinafter mentioned ignite in the open air any inflammable material for any purpose whatsoever within two yards of any growing crops of corn or hay or of any stubble field or of any stack of corn or hay or carry any ignited material into any growing crops of corn or hay or any stubble field or within ten yards of any stack of hay or corn during the months of *November December January or February* or if any person except as hereinafter mentioned shall ignite any inflammable material in the open air whereby the property of any other person shall be injured or destroyed or shall leave any fire which he may have lighted or caused to have been lighted in the open air before the same be thoroughly extinguished he shall forfeit and pay for every such offence any sum of money not exceeding Fifty pounds or be imprisoned in any Gaol or House of Correction either with or without hard labor for any period not exceeding six months Provided that it shall be lawful for the owner or occupier of any land to burn any straw stubble grass or herbage or to ignite any wood or other inflammable material on such land after he shall have cleared of inflammable substance a space of land around the straw stubble grass or herbage intended to be burnt or wood or other inflammable material intended to be ignited of not less than fifteen feet in breadth and after he shall have given to the occupiers of all land contiguous to the land from or on which the stubble grass or herbage is intended to be burnt or inflammable material to be ignited notice in writing at least twenty-four

Preamble.

Penalty for lighting fire in crops of corn, &c.

Proviso.

Proviso.

twenty-four hours before burning or igniting as aforesaid of the time at which it is his intention so to burn or ignite. Provided further that it shall be lawful for the occupier of any Waste Lands of the Crown at and between the hours of two of the clock *post meridiem* and nine of the clock *post meridiem* to burn off any grass or herbage from any such land in his occupation after giving the like notice in writing as hereinbefore directed of his intention so to do to all occupiers of land contiguous to the land from which the grass or herbage is intended to be burnt.

Damage by fire to dividing fence caused by neglect of owner or occupier of land, to be made good by him.

II. If the owner or occupier of any land shall clear the same of inflammable materials for the space of fifteen feet from any fence dividing such land from the land of any other owner or occupier and such other owner or occupier shall neglect or omit so to clear his land and any damage from fire shall happen to such dividing fence through such neglect or omission then the owner or occupier of land so neglecting or omitting to clear the same shall at his own costs and charges cause such fence to be repaired and re-erected within the space of one calendar month after the same shall have been so damaged and in case he shall refuse or omit to repair or re-erect the same fence within such space of one month it shall be lawful for the owner or occupier of the land contiguous to the said fence who shall have cleared the same of inflammable material as aforesaid to repair or re-erect such dividing fence and all sums of money which shall or may be so expended or laid out under the provisions of this Act shall be recovered in a summary way before any two or more of Her Majesty's Justices of the Peace for the said Colony and be paid over to the party so repairing or re-erecting such fence.

Offender may be apprehended without warrant.

III. It shall be lawful for any person whomsoever to apprehend any person who shall be found committing any offence against any of the provisions of this Act and convey or deliver him to some Constable or other Peace Officer in order to his being conveyed as soon as conveniently may be before a Justice of the Peace to be dealt with according to law.

Penalty on person obstructing another acting under this Act.

IV. If any person liable to be apprehended under the provisions of this Act shall oppose resist or assault any person acting in execution of any of the provisions of this Act every such offender shall be guilty of a misdemeanour and being convicted thereof shall be liable to be imprisoned with or without hard labor for any term not exceeding six months.

Proceedings under this Act not to interfere with right to sue for compensation for damage by fire.

V. Nothing in this Act contained shall take away or interfere or be construed to take away or interfere with the right of any person to sue for and recover at Common Law or otherwise compensation for or in respect of any damage or injury occasioned by the reckless or negligent use of fire.

Summary proceedings.

VI. All fines and penalties imposed by this Act shall be recoverable before one or more Justices of the Peace and all proceedings under this Act shall be had and taken in a summary way and no such proceeding shall be quashed for want of form or removed by *certiorari* or otherwise into the Supreme Court of Victoria.

No *certiorari*.

Appeal to General Sessions.

VII. Any person ordered or adjudged to pay any fine penalty or forfeiture of Ten Pounds and upwards or to be imprisoned who shall feel himself aggrieved by the Justice or Justices adjudicating or before whom he was convicted may appeal from any such judgment or conviction to the next Court of General Sessions of the Peace which shall be held nearest to the place where such judgment or conviction shall have been given or made and the execution of every such judgment or conviction so appealed from shall be suspended in case such person shall with one or more sufficient Surety or Sureties immediately before such Justices enter into a Recognizance to Her Majesty Her Heirs and Successors in the penal sum of double the amount of such fine penalty or forfeiture or in case of imprisonment in such sum as such Justice or Justices may direct which

which recognizance such Justices are hereby authorized and required to take and such recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination of the said Court of General Sessions and to pay such Costs as the said Court shall award on such occasion and such Court of General Sessions is hereby authorized and required to hear and determine the matter of the said Appeal and the decision of such Court shall be final between the parties to all intents and purposes.

VIII. All fines and penalties not specially appropriated recovered under this Act shall be paid to the Colonial Treasurer for and on behalf of Her Majesty Her Heirs and Successors and be applied for the public uses of the said Colony and in support of the Government thereof.

Application of fines,
&c.