

No. X.

An Act for protecting the Crown Lands of this Colony from Encroachment Intrusion and Trespass. [28th August, 1833.]

CROWN LANDS
ENCROACHMENT.

WHEREAS it is expedient and necessary to protect the Crown Lands of this Colony from encroachment intrusion and trespass thereon and to prevent the unauthorized occupation thereof from being considered a giving any legal title thereto Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the passing of this Act it shall and may be lawful for the Governor of this Colony by warrant under his hand and seal to appoint so many fit and proper persons as he shall think fit to be and the said persons shall thereupon be and be called “ *Commissioners of Crown Lands in the Colony of New South Wales* ” and the said persons and each of them shall continue in office as such during the pleasure of the said Governor and the said Commissioners or any two or more of them shall and may during their continuance in office as aforesaid do and perform by and under direction of the Governor for and on behalf of His Majesty His Heirs and Successors in upon or in respect of any Crown Lands in this Colony all such lawful acts matters and things for preventing intrusion encroachment and trespass thereon or for such other purpose as any bailiff or bailiffs lawfully appointed may by law do or perform in upon or in respect of any lands tenements or hereditaments of his or their employer or employers.

Governor to appoint
Commissioners of
Crown Lands to have
same power as
bailiffs.

Crown Lands Encroachment.

Commissioners
authorized to make
perambulations and
surveys of Crown
Lands and to require
the assistance of Jus-
tices of the Peace &c.

2. And be it enacted That it shall and may be lawful for the said Commissioners or for any two or more of them at any time and from time to time as the same shall appear to be necessary under direction of the Governor to make perambulations and surveys of the Crown Lands or any part thereof in any district of this Colony and upon such perambulations and surveys to require by writing under their hands the assistance of any Justice of the Peace or constable in making the same and also to take in their aid so many persons as shall and may be necessary for the purposes of this Act.

Commissioners to
erect beacons and
landmarks upon
Crown Lands penalty
for wilfully injuring
&c. any beacon or
landmark.

3. And be it enacted That it shall and may be lawful for the said Commissioners or any two or more of them under the direction of the Governor as aforesaid to erect and place or cause to be erected and placed beacons or landmarks of such construction form and materials and marked in such manner as shall be appointed by the Surveyor General of this Colony upon any Crown Lands or the boundaries of any Crown Lands as they shall deem needful for denoting the same and the said beacons and landmarks from time to time to keep up and maintain or cause to be kept up and maintained in proper repair and if any person shall wilfully deface injure destroy or remove any such beacon or landmark so placed or erected as aforesaid such person (being a free person) shall forfeit and pay to His Majesty His Heirs and Successors for every such offence the sum of fifty pounds which shall and may be recovered by action of debt in the name of His Majesty's Attorney General in any competent Court of this Colony and if such offence shall be committed by any convict or transported felon or offender such person shall be deemed and taken thereby to have committed a misdemeanor and shall and may be punished for the same accordingly.

Justices of the Peace
&c. to assist Com-
missioners in their
perambulations and
surveys.

4. And be it enacted That every Justice of the Peace and constable shall being thereunto required by writing under the hands of any two or more Commissioners appointed under authority of this Act aid and assist the said Commissioners in making their perambulations and surveys and no suit or action shall be brought or commenced against any Justice of the Peace or constable for any act matter or thing done by them or any of them upon the requisition or order of the said Commissioners or any two or more of them during the time that the said Commissioners or any two or more of them shall be actually present and ordering or permitting the same to be done but any suit or action shall and may be brought against the said Commissioners alone for any act matter or thing so done by them or by their order or authority and in their presence as aforesaid and service of process in any such suit or action upon either of the said Commissioners so being present as aforesaid when the said act matter or thing complained of was done or performed shall in all cases be deemed and taken to be good and sufficient service.

As to actions for any
thing so done by
them.

Limitation of actions
and as to costs when
verdict for defendant.

5. And be it enacted That any suit or action which shall be brought against any Commissioner or Commissioners to be appointed under the authority of this Act or against any person or persons acting under the authority or by the order of such Commissioners or any two or more of them for any thing done or acted by him or them under this Act shall be commenced within six calendar months next after the fact committed (in respect of which such suit or action shall be brought or commenced) and not afterwards and the defendant or defendants in every such suit or action shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and if such suit or action shall be brought or commenced after the time so limited for bringing the same or contrary to the provisions of this Act or if the matter or thing complained of shall be proved to have been done under the authority and in the execution

Roads and Streets.

execution of this Act then and in either of such cases the jury shall find a verdict for the defendant or defendants and if the plaintiff or plaintiffs shall become nonsuit or discontinue his or her action after appearance of the defendant or defendants or there shall be a verdict against the plaintiff or plaintiffs or if upon demurrer judgment shall be given against the plaintiff or plaintiffs the said defendant or defendants shall have double costs of suit and shall have the like remedy for the recovery thereof as any defendant hath for the recovery of costs in any other case at law.

6. And be it enacted That it shall and may be lawful for the Governor of this Colony to pay or cause to be paid out of the Public Treasury of this Colony to each of the Commissioners to be appointed under and by virtue of this Act and to the Justices of the Peace constables and other persons acting in aid of the said Commissioners as aforesaid as and for a remuneration for their services and for their travelling expenses the sums following that is to say to each Commissioner or Justice of the Peace for every day upon which he shall be actually and necessarily employed upon any perambulation or survey a sum not exceeding twenty shillings per diem in the whole to every constable or other person taken in aid of the said Commissioners for every day upon which he shall be actually and necessarily employed upon any perambulation or survey a sum not exceeding two shillings and sixpence per diem in the whole and it shall and may be lawful for the said Governor in like manner to pay and defray the reasonable expenses of erecting placing supporting and maintaining all necessary beacons and landmarks as aforesaid.

As to remuneration of Commissioners Justices &c. and others in their aid.

7. And be it enacted That it shall and may be lawful for the Governor of this Colony to pay or cause to be paid out of the Public Treasury of this Colony the costs and charges of any suit or action which shall or may be brought as aforesaid by or against the said Commissioners or any Justice of the Peace constable or other person acting under the authority of any of the provisions of this Act for any matter or thing by them or any of them done as aforesaid Provided always that such suit or action shall have been brought or defended under direction of the Governor of the said Colony and provided that such Commissioners Justice of the Peace constable or other person acting under the authority of any of the provisions of this Act shall not be proved to have wilfully conducted themselves or himself in any improper vexatious or oppressive manner.

Costs of actions against Commissioners &c. how to be defrayed.