

## No. VII.

An Act to prevent the denudation of the Sand Hills in the neighbourhood of Sydney. [4th December, 1851.]

SAND HILLS  
PROTECTION.  
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**W**HEREAS it is expedient to prevent the denudation of the Sand Hills in the neighbourhood of Sydney Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That if any person other than the lawful owner thereof or having specific permission or license in that behalf shall cut down root up or otherwise destroy any tree sapling or shrub growing upon any of the Sand Hills between the waters of Port Jackson and Botany Bay and eastward of the City of Sydney and the Cook's River Road to the Sea Coast or shall remove or destroy any roots grasses or growing plants from or upon such Sand Hills or shall take or carry away any such tree sapling shrub underwood root grass or growing plant which shall have been so unlawfully cut down broken rooted up removed or destroyed as aforesaid and which such person shall know to have been so unlawfully cut down rooted up removed or destroyed every person shall be liable on conviction to the penalties following that is to say for the first offence he shall forfeit and pay a sum not exceeding twenty shillings for the second offence a sum not exceeding two pounds nor less than ten shillings and for the third or any subsequent offence a sum not exceeding five pounds nor less than two pounds.

Preamble.

Unlicensed persons cutting down &c. any tree sapling or shrub growing upon any of the Sand Hills near Sydney subject to a penalty.

*Sand Hills Protection.*

Recovery of  
penalties.

2. And be it enacted That the penalties hereinbefore imposed shall be recovered on behalf of Her Majesty for the public uses of the Colony together with the prosecutor's reasonable costs in a summary way before any one or more Justices of the Peace upon the complaint on oath and without any formal information of any Commissioner of Crown Lands or other person duly authorized in that behalf by the Governor of the Colony for the time being and that such Commissioner or other person shall be a competent witness upon the hearing of any such complaint and that it shall not be necessary for him to prove that the person charged was not at the time of the commission of the alleged offence an owner or person having a sufficient permission and license as hereinbefore expressed but the burthen of proving the contrary thereof shall be upon the party charged.

Any Commissioner  
of Crown Lands or  
any Ranger appointed  
by the Governor may  
arrest any person  
offending against the  
provisions of this  
Act.

3. And be it enacted That it shall be lawful for any Commissioner of Crown Lands or any Ranger appointed by the said Governor to arrest any person whom he shall find offending against the provisions of this Act or any of them and to take such person before some Justice of the Peace who shall thereupon take bail for the appearance of such person to answer any information or complaint to be laid or brought against him or her as aforesaid or in default of such bail may commit such person to custody by way of remand to answer such charge for not more than twenty-four hours or may upon hearing the matters alleged against such person forthwith discharge such person absolutely or upon his or her recognizance to appear at a certain time as to such Justice shall seem fit.

Limitation of actions.

4. And for the protection of persons acting in execution of this Act be it enacted That all actions or other proceedings for anything done under this Act shall be commenced within two calendar months after the matter complained of was committed and not otherwise and notice in writing of such action and the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in every such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been paid into Court after such action brought by or on behalf of the defendant together with costs incurred up to that time and if a verdict shall pass for the defendant or the plaintiff become nonsuited or discontinue such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in other cases and although a verdict shall be given for the plaintiff in such action such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

No *certiorari*.

5. And be it enacted That no order judgment or other proceeding made touching or concerning the matters aforesaid or touching or concerning the conviction of any offender or offenders against this Act shall be quashed or vacated for want of form only or be removed or removable by *certiorari* or any writ or process whatsoever into the Supreme Court of the said Colony.