

No. XXI.

CARELESS USE OF
FIRE PREVENTION.

An Act for preventing the careless use of Fire. [7th April, 1866.]

Preamble.

WHEREAS the reckless and negligent use of Fire is attended with great danger and ought to be restrained 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:—

Penalties for setting
fire to corn or grass
or leaving fire burn-
ing.

1. If any person shall except as hereinafter mentioned ignite or use or carry when ignited any inflammable material within twenty yards of any growing crops or stacks of corn pulse or hay or within three yards of any stubble field or grass land and thereby the property of any other person shall be injured or destroyed he shall forfeit and pay for every such offence any sum of money not exceeding fifty pounds or be imprisoned with or without hard labor for any period not exceeding three months or if any person shall except as hereinafter mentioned leave any fire which he may have lighted or used 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 ten pounds

Careless use of Fire Prevention.

pounds or be imprisoned for any period not exceeding one month Provided that it shall be lawful for the 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 occupier of all land contiguous to the land from or on which the straw stubble grass or herbage is intended to be burnt or inflammable material to be ignited notice in writing at least 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 grass lands between the hours of seven of the clock in the forenoon and nine of the clock in the afternoon 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 the occupiers of all land contiguous to the land from which the grass or herbage is intended to be burned.

2. If the 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 the owner or occupier so neglecting or omitting to clear shall at his own costs and charges cause such fence to be repaired and re-erected within the space of one 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 deemed and taken to be money paid to the use of the owner or occupier in default.

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

3. All offences under the first section of this Act may be prosecuted for and adjudicated upon in a summary way before any one or more Justice or Justices of the Peace.

Penalties may be recovered in a summary way.

4. 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 to 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.

Offender may be apprehended without warrant.

5. 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 misdemeanor and being convicted thereof shall be liable to be fined or to be imprisoned with or without hard labor for any term not exceeding six months.

Penalty on person obstructing another acting under this Act.

6. 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.

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

7. No proceedings under this Act shall be quashed for want of form or removed by *certiorari* or otherwise into the Supreme Court.

Certiorari.

8. Any person ordered or adjudged to pay any fine penalty or forfeiture of ten pounds and upwards or to be imprisoned who shall feel

Appeal to General Sessions.

Game Protection.

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 holden 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 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.
