



WESTERN AUSTRALIA.

ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

No. IX.

An Ordinance to repeal an Ordinance, 14th Vict., No 26, intituled, "An Ordinance for the further Improvement of Towns, and the greater security of Life and Property therein," and to make other provisions in lieu thereof.

WHEREAS an Ordinance of the Legislative Council of this Preamble. Colony was passed in the 14th year of the reign of Her pre-

14th Vic. No. 26 re-
pealed.

sent Majesty Queen Victoria, entitled "An Ordinance for the further improvement of Towns, and the greater security of Life and Property therein," No. 26; and whereas it has been found that a strict enforcement of the provisions of the said Ordinance has had the injurious effect of checking the erection of stone and brick dwelling-houses and buildings in the several towns to which the said Ordinance extends; and whereas it is expedient to repeal the said Ordinance, and to make other provisions in lieu thereof;— Be it therefore enacted, by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that the said recited Ordinance shall be and the same is hereby repealed.

No building of rush,
straw, bark, &c., to
be erected. Penalty
£50.

II. AND be it further enacted, that any person who shall, after the passing of this Ordinance, build, erect, construct, or cause to be built, erected, or constructed, wholly or partly, on any portion of the townsites of Perth, Fremantle, or Albany, which is now or may be hereafter from time to time laid out and subdivided into streets and allotments in the maps of the Surveyor General's Office of this Colony, any dwelling-house, out-house, or building, or roof, of whatsoever nature, of rush, straw, bark, grass-tree-top or any other inflammable substance or material of the like nature, shall on conviction thereof before any two or more Justices of the Peace for the said Colony forfeit and pay, for every such offence, any sum not exceeding £50; and any such dwelling-house, out-house, building, or roof, or such portion or portions thereof respectively, which shall hereafter be constructed as aforesaid, shall be deemed a public nuisance, and be liable to be removed or abated accordingly. And any such dwelling-house, out-house building or roof, or portion or portions thereof respectively, which may have been so constructed of rush, straw, bark, grass-tree-top, or other inflammable substance, or material of the like nature, before the passing of this Ordinance, within the limits aforesaid, shall on the 1st day of January which will be in the year 1862 (if it remain to that time) be deemed a public nuisance, and be liable to be removed or abated accordingly. Provided always, that nothing herein-before contained shall be held or construed to interfere with or prohibit the use of boards, shingles, or other timber in the construction of any dwelling-house, out-house, building, or roof, or of any portion or portions thereof respectively.

No wooden building
higher than 20 feet to
be erected.
Penalty £50.

III. AND be it enacted that from and after the passing of this Ordinance, any person who shall, within the limits aforesaid, build, erect, or construct, or cause to be built, erected, or constructed, any

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dwelling-house, out-house, or building, of whatsoever nature, (except government and public buildings) the external surface of any end or ends, side or sides whereof shall wholly or principally consist of wood, and be of a greater height in any part thereof, than 20 feet from the level of the surrounding soil to the ridge of the roof thereof, shall, on conviction thereof before any two or more Justices of the Peace for the said colony, forfeit and pay for every such offence, any sum not exceeding £50; and every such dwelling-house, out-house, or building shall be deemed a public nuisance, and be liable to be removed or abated accordingly.

IV. AND be it enacted, that if any person shall build, or construct, or begin to build, or construct, or cause to be built or constructed, or to be commenced to be built or constructed, any dwelling-house, out-house, building, or roof, or any portion thereof respectively, in any respect contrary to the provisions of this Ordinance, and be thereof summarily convicted by the oaths of two or more credible witnesses, before any Court of Quarter Sessions of the colony, (which oaths the said Court of Quarter Sessions is hereby empowered and required to administer), then the said dwelling-house, out-house, building, or roof, or the portion or portions thereof so irregularly or illegally built, or constructed, or commenced to be built or constructed, shall be deemed a public nuisance, and the builder and the owner thereof, or one of them, as the said Court shall require, shall enter into a recognizance in such sum as the said Court of Quarter Sessions shall appoint for removing or abating the same, within such convenient time as the said Court shall appoint; and in default of entering into such recognizance, the person or persons so making default shall be committed to the Common Gaol of the district, there to remain, without bail or mainprize, until he shall have removed or abated or otherwise amended the same, or until such irregular or illegal dwelling-house, out-house, building, or roof, or portion or portions thereof respectively, shall be removed or abated, by order of the said Court, and which order the said Court is hereby empowered to make.

If building be adjudged a nuisance, parties to enter into recognizance to abate same, or be committed.

V. AND be it enacted, that it shall be lawful for the said Court, or any two or more Justices of the Peace for the said colony, to order every dwelling-house, out-house, building, or roof, or any portion or portions thereof respectively, so irregularly built, or constructed, or begun to be built or constructed, and shall have been adjudged to be a public nuisance by the said Court of Quarter Sessions, under the provisions of this Ordinance, to be abated or taken down, and to

Building adjudged to be a nuisance, may be taken down, materials sold, expenses paid, and surplus given to owner

order the person or persons authorised to abate or take down the same, to sell and dispose of the materials thereof, and out of the monies arising by the sale thereof, to pay to themselves, and all persons by them employed, for the purposes aforesaid, the reasonable charges of abating or taking down such nuisance; and to pay the surplus of the monies arising by such sale (if any) to the owner or owners of such materials.

Servants causing houses to take fire through carelessness
Penalty £100.

VI. AND whereas, fires often happen by the negligence and carelessness of servants; be it therefore enacted, that if any menial or other servant or servants, through negligence or carelessness, shall fire, or cause to be fired, any dwelling-house, or out-house, or houses or other buildings, situate in any of the towns under the operation of this Ordinance, such servant or servants, he, she, or they, being free persons, and being thereof lawfully convicted by the oath of one or more credible witness or witnesses, before two or more of Her Majesty's Justices of the Peace in Petty Sessions assembled, shall forfeit and pay a sum not exceeding one hundred pounds, to be paid to the said Bench of Magistrates, to be distributed amongst the sufferers by such fire, in such proportions as to the said Bench of Magistrates shall seem just; and in case of default or refusal to pay the same immediately after such conviction, or at such time as the convicting Justices shall appoint, that then, and in such case, such servant or servants shall, by warrant under the hands and seals of two or more of Her Majesty's Justices of the Peace, be committed to the common gaol or house of correction, as the said Justices think fit, for a space not exceeding 18 calendar months, there to be kept to hard labour: and such servants, being convicts, and being convicted as aforesaid, if male, shall be liable to be worked in irons on the roads or any other public works, for any period not exceeding eighteen calendar months, and if female, to be confined in any suitable house of correction for any period not exceeding eighteen calendar months.

Chimneys taken fire from carelessness.

VII. AND be it enacted, that in every case in which it shall be made to appear to the satisfaction of any two or more Justices of the Peace for the said colony, that the chimney of any house or building within any of the limits of the said towns has taken fire from the occupier of any such house or building having omitted to cause such chimney to be regularly and sufficiently swept and cleaned, or from any other neglect of such occupier or of his or her servant or servants, such occupier shall on conviction before any Justices, forfeit and

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pay for every such offence any sum not exceeding forty shillings, to be recovered by distress and sale of the offender's goods and chattels; one moiety whereof to be paid to the person informing; and the remainder to the Colonial Treasurer, to the public uses of the said colony.

VIII. AND whereas the injudicious cutting down and removing of clay and other soil from the streets, tends to endanger the security of buildings and fences already erected on or near the line of such streets, and to destroy the safety and convenience of the pathways in their vicinity; be it enacted, that from and after the passing of this Ordinance, no cutting, excavation, or other work of the like nature, shall be made in any of the streets or thoroughfares of the aforesaid towns of Perth, Fremantle, or Albany, except with the concurrence of such supervisor as hereinafter mentioned; any thing in any former Ordinance, law, or usage to the contrary notwithstanding; under pain of forfeiting any sum not exceeding Twenty Pounds.

No cutting in streets without concurrence of Supervisor.
Penalty £20.

IX. AND be it enacted, that the Governor of the said colony for the time being shall and may nominate and appoint such and so many competent persons as he may think fit to be supervisors, to see the provisions of this Ordinance well and truly observed in and throughout the said towns, and shall have power to cancel such appointments.

Governor may appoint supervisors.

X. AND be it enacted, that it shall be lawful for the Governor, by proclamation published in the Government Gazette, from time to time, to include within the provisions of this Ordinance any other town in the said colony which he may deem it expedient so to do.

Other towns may be included.

XI. AND be it enacted, that all informations and proceedings in respect of offences against this Ordinance, hereby made summarily punishable on conviction before Justices of the Peace in Petty Sessions shall be commenced within six calendar months after the offences thereby respectively charged shall have been committed, and shall be heard and determined, and the penalties and forfeitures in respect of the same enforced and appropriated (except where hereinbefore otherwise appropriated) according to the provisions of an Ordinance passed

Limitation of proceedings & recovery and appropriation of penalties.

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in the 14th year of the Reign of Her present Majesty, intituled "An Ordinance to facilitate the performance of the Duties of Justices of the Peace, out of Sessions, in the Colony of Western Australia, with respect to Summary Convictions and Orders."

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.

*Passed the Council the 26th }
day of May, 1852. }*

A. O'GRADY LEFROY,
Clerk of the Council.