



WESTERN AUSTRALIA.

ANNO DECIMO QUARTO

VICTORIÆ REGINÆ.

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No. XXVI.

**An Ordinance for the further Improvement  
of Towns, and the greater security of Life  
and Property therein.**

**W**HEREAS it is expedient, for the safety of the inhabitants of towns and the security of their property, that provisions should be made for the better regulation of certain buildings, and for the prevention of mischiefs by fire and otherwise therein;—Be it

therefore enacted, by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance, the several Churches, Chaples, or other places of Public Worship, Dwelling Houses, and all other buildings whatsoever in the towns of Perth, Fremantle and Albany, intended to be controlled hereby which shall be commenced to be built within any of the said towns, on new foundations, or old foundations, or on foundations partly new and partly old, shall be distinguished by, and divided into the two several rates or classes of buildings hereinafter described; and such two several rates or classes of building shall be under the rules and directions hereinafter contained concerning the same.

Two classes of buildings.

Definition of 1st class. II. AND be it enacted, that every building hereafter to be built which shall exceed one clear floor above the ground floor or the basement floor, exclusive of the rooms (if any) wholly in the roof thereof, or which shall be of the height of twenty four feet at least from the base of the foundation thereof on either of the fronts thereof to the upper side of the plate of the roof (or of the blocking or parapet as the case may, be,) shall be deemed the first rate or class of building.

Dimensions of Walls of 1st class.

III. AND be it enacted, that every front, side, end, or other external wall (not being a party wall), or the external wall of any wing or lean-to less than fifteen feet in height from the base of the foundation thereof,) which shall after the passing of this Ordinance, be commenced to be built to any first rate building, shall be built and remain at the foundation thereof of the thickness of two bricks and a-half in length, or twenty-two inches at the least, the footing of which foundation shall be nine inches high at the least, and wholly below the upper surface of the pavement or flooring joists of the basement or ground-floor nine inches at least; and every such wall shall, from the top of such footing, be of the thickness of two bricks in length or 17 inches at the least, up to the upper side of the joists of the next floor: and from thence of the thickness of  $1\frac{1}{2}$  bricks in length, or 13 inches at the least, up to the upper side of the joists of the next floor, and of the thickness of one brick in length, or eight and a-half inches at the least, from thence to the under side of the plate of the roof (or to the top of the blocking or parapet, (as the case may be,) of every such first rate building; and if there be no intermediate floor in any such first rate building, then the external walls thereof shall be of

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the thickness of two bricks in length, or seventeen inches at the least, from the top of the footing to the top of such wall. And be it further enacted, that any wall of each class of building within the meaning of this Ordinance, being built of stone, shall be of the following respective thicknesses at the least: in lieu of one brick, it shall be 12 inches thick; and in lieu of one and a-half brick, it shall be 16 inches thick; and in lieu of two bricks, 20 inches thick; and in lieu of two and a half bricks, 24 inches thick: and every wall of each class of building within the meaning of this Ordinance shall be built with lime and mortar.

IV. AND be it enacted, that every building, except such buildings as are herein particularly declared to be of the first rate or class of building, hereafter to be built which shall have one clear floor, and shall not contain two clear floors, above the ground floor or the basement floor, exclusive of the rooms (if any) wholly in the roof thereof, or which shall be of the height of more than fifteen feet, and shall not be of the height of twenty-four feet from the base of the foundation thereof, or either of the front thereof to the upper side of the plate of the roof, (or of the blocking or parapet, as the case may be,) shall be deemed the second rate or class of building.

V. AND be it enacted, that every front, side, end, or other external wall (not being a party wall) or the external wall of any wing or lean-to less than fifteen feet in height from the base of the foundation thereof, which shall, after the passing of this Ordinance, be commenced to be built to any second rate building, shall be built and remain, at the foundation thereof, of the thickness of two bricks in length, or 17 inches at the least, the footing of which foundation shall be six inches high at the least, and wholly below the upper surface of the pavement or flooring joists of the ground floor or the basement floor, nine inches at the least; and every such wall shall from the top of such footing, be of the thickness of one brick and a-half in length, or thirteen inches at the least, up to the upper side of the joists of the next floor; and from thence of the thickness of one brick in length, or 8 inches and a-half at the least up to the under side of the plate of the roof (or the top of the blocking or parapet, as the case may be,) of every such second rate building; and if there be no intermediate floor in any such second rate building, then the external walls thereof shall be of the thickness of one brick and a-half in length or thirteen inches at the least, from the top of the footing to the top of such wall.

Restriction on the use  
of timber, &c. in  
chimneys, &c.

Chimneys, &c., to be  
rendered or parget-  
ted.

Governor to appoint  
Supervisors.

Notice of building to  
be given to Supervi-  
sor.

VI. AND be it enacted, that no timber or wood-work whatever shall be laid in the brick-work of any oven, stove, copper, still, boiler or furnace in any building whatever to be built after the passing of this Ordinance, nor within two feet of the inside of any such oven, stove, copper, still, boiler or furnace; nor shall any timber whatever be laid in the brick-work of any chimney to be built after the said time nearer than nine inches to the opening of any such chimney, or than five inches to the inside of the flue of any chimney oven, stove, copper, still, boiler or furnace, or than nine inches to the inside of the flue of any such oven, stove, copper, still, boiler or furnace, where any such timber shall lie or be placed nearer than five feet above the mouth of the same and that no wood-work whatever shall, at any time after the time aforesaid, be affixed for the purpose of supporting or carrying the front of any chimney breast, or at the back of any chimney or flue, and no iron nail, iron holdfast, or other iron fastening, which shall be used for the purpose of attaching any chimney piece to any chimney front, shall lie or be driven more than three inches into the wall against any such chimney or flue, or nearer than four inches to the inside of the opening of any chimney; and that no chimney shall, after the time aforesaid, be erected on any timber work whatever except on such piling, bridging, or planking as may be necessary below the foundation of the building in which such chimney is erected: but every chimney thereafter to be built shall be erected on such piling, bridging, or planking, or on solid ground, or on a brick or stone foundation, or shall be set upon brick or stone corbels, or iron brackets or upon iron shores, which iron shores shall be supported by brick or stone foundation; and every breast and back of every chimney, and every breast, back, and partition of any flue hereafter to be built, shall be rendered or pargetted within and without.

VII. 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 said rules and directions well and truly observed in and throughout the said towns, and shall have power to cancel such appointment.

VIII. AND be it enacted, that before any building, on new or old foundations, or on foundations partly new and partly old, within the limits of this Ordinance, shall, after the passing thereof, be commenced to be built, the master-workman or other person

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causing such building to be built, shall give forty-eight hours' notice thereof to the supervisor appointed as aforesaid, within whose district the same shall be : and shall declare in such notice the particular rate or class of building intended to be erected ; and any subsequent deviation therefrom, without previous notice thereof to the said supervisor, shall subject the party offending therein to a penalty not exceeding Twenty Pounds ; and such supervisor shall view the said building, and see that all the rules and directions in this Ordinance contained are well and truly observed. penalty for deviation.

IX. AND be it enacted, that it shall not be lawful to make any such alteration in the height of the walls of any building as may have the effect of raising such building into a second or first rate or class, without previously giving such notice as hereinbefore provided to the supervisor aforesaid, nor without having obtained the written approval of the supervisor of such means, if any be required, as may be adopted to strengthen such walls, and render them suitable for the class of building which the said walls are intended to represent. Notice of certain alterations to be given to Supervisor, and approval obtained.

X. AND be it enacted, that in any case where any two or more buildings, of whatever size the same may be, and whether of the first or second class or otherwise, shall, after the passing of this Ordinance, be commenced to be built adjoining to each other, or with one common wall between them, then the wall separating such buildings shall be deemed to be a party wall, and such party wall shall in all cases be built of the additional thickness beyond that required for the external wall of such buildings, respectively, of one-half brick, or four and a half inches in every part thereof, or if of stone, then of six inches in every part thereof ; and if the said building be not of either of the first or second rate, then such party wall must be at least of the thickness of 13 inches, if of brick, or 18 inches, if of stone, in every part thereof ; and the upper portion of every party wall shall be carried up to the height of eighteen inches above the square of the rafter. Provided also, that if any party-external wall shall be used as a party wall for the purpose of attaching a roof or any other portion of a building thereto, such wall shall then be deemed a party wall within the meaning of this Ordinance ; and no such addition to or use of such wall shall be made without first giving notice thereof to the said supervisor, as hereinbefore provided. Party walls ;  
dimensions ;  
notice.

XI. AND be it enacted, that if any person shall, after the pass-

Neglecting to give notice or refusing admission to supervisor; penalty. ing of this Ordinance, begin any building or any alteration within the meaning of this Ordinance, without first giving such notice as aforesaid to the supervisor within whose district the same is situated, or shall refuse such supervisor admittance from time to time, at reasonable hours, for the purpose of viewing the same, then every person so neglecting to give such notice, or so refusing such admittance, shall, for every default therein, forfeit and pay, on conviction thereof before any two or more Justices of the Peace, any sum not exceeding Five Pounds.

Refusing to alter or amend irregularity; Penalty. XII. AND be it enacted, that if any person shall neglect or refuse to alter or amend, within a reasonable time, any irregularity in a building contrary to the provisions of this Ordinance, which has been pointed out or directed by the said supervisor either verbally or by a written notice left on such premises, or at the last known residence of the owner thereof, such party so offending shall, on conviction thereof before any two or more Justices of the Peace, forfeit and pay for the first offence, the sum of Forty shillings, and for any subsequent offence connected with the same building, any sum not exceeding Ten Pounds.

Justices may order irregularity to be amended; if not amended, may be indicted as a nuisance. XIII. AND be it enacted, that if any person or persons shall, notwithstanding any such notice or conviction as aforesaid, persist or continue to build contrary to the rules and directions in this Ordinance contained, then in such case the supervisor in whose district the same may occur shall give information thereof as soon as conveniently may be to any Justice of the Peace, who, together with any other Justice of the Peace, shall thereupon proceed to investigate the matter, and if any breach of the rules and directions of this Ordinance contained shall be found to have been committed, the said Justices shall order such irregular wall or building to be amended; and in case such amendment shall not be carried into effect within a reasonable time, then it shall be competent for the said supervisor to indict the same at the Court of Quarter Sessions as a public nuisance.

Thatched buildings. XIV. AND whereas the construction of thatched buildings in towns tends to the endangering of life and the insecurity and destruction of property, because of its greater liability to fire; and whereas other less hazardous materials for the covering of houses are now procura-

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ble; be it enacted, that, from and after the passing of this Ordinance, any person who shall, in any of the said towns of Perth, Fremantle, or Albany, cover or construct, or cause to be covered or constructed, wholly or partly, the roof or any of the external sides of any house, out-house, or building, of whatsoever nature, (not being thatched or prepared for thatching at the time of the passing of this Ordinance,) with rush, straw, bark, or any other such inflammable substance, 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 five pounds; and any such building or roof which shall hereafter be constructed as aforesaid shall be deemed a public nuisance; and any such building or roof which may have been constructed before the passing of this Ordinance, shall, on the first day of January 1862, (if it remain to that time), be deemed a public nuisance and liable to be abated or removed accordingly.

XV. AND be it enacted, that if any person or persons shall build, or begin to build, or cause to be built or to be commenced to be built any building or party wall, or alter, or cause to be altered, any building or party wall already erected, 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 said colony (which oaths the said Court of Quarter Sessions is hereby empowered and required to administer,) then the said house, building, or wall so irregularly built, or begun to be built, or so irregularly altered, or begun to be altered, 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 abating and demolishing the same, within such convenient time as the said Court shall appoint; or otherwise to amend the same according to such rules and directions as are hereinbefore contained; 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 abated or demolished, or otherwise amended the same; or until the irregular house or building shall be abated or demolished by order of the said Court, 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.

XVI. AND be it enacted, that it shall be lawful for the said Court

Building deemed a nuisance may be taken down, materials sold, expences paid, and surplus given to owner. or any two or more Justices of the Peace for the said colony, to order every house, building, or party wall so irregularly built or begun to be built, or so irregularly altered or begun to be altered, as 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 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 monies arising by such sale (if any be) to the owner or owners of such materials.

Seavants occasioning houses to take fire.

XVII. 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 unto 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 taking fire from carelessness.

XVIII. 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



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the Peace for the colony, that the chimney of any house or building within the limits of any 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 his or her servant, or servants, such occupier shall, on conviction before any such Justices, forfeit and 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, for the public uses of the said colony.

XIX. 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 aforesaid; anything 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;

XX. PROVIDED also, and be it enacted, that nothing in this Ordinance contained shall extend to the construction of any house or building composed of iron or any other metal.

Buildings of iron, &c.

XXI. 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.

XXII. AND be it enacted, that all informations and proceedings in respect of offences against this Ordinance hereby made 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

Limitations of proceedings and appropriation of penalties.

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in respect of the same enforced and appropriated (except where hereinbefore otherwise appropriated) according to the Provisions of an Ordinance passed in the fourteenth 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 Legislative Council, }  
the 27th day of May, 1851. }*

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