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WESTERN AUSTRALIA.
ANNO DECIMO,
VICTORIÆ REGINÆ.

*By His Excellency Lieutenant Colonel
FREDERICK CHIDLEY IRWIN, Knight
Companion of the Royal Hanoverian
Guelphic Order, Governor and Com-
mander-in-Chief of the Territory of
Western Australia, and Vice-Admiral
of the same; with the advice and con-
sent of the Legislative Council thereof*

NO. XIV.

An Ordinance for improving the Law of Evidence.

Whereas it is expedient to remove the legal incapacities which at present prevent the admission of the testimony of certain classes of persons as witnesses, and to leave the question of the credibility of such witnesses to be decided by the persons appointed to decide on the case; and whereas it is also expedient to admit certain public documents to be receivable in evidence without the necessity of proving that the said documents are genuine—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 no person offered as a witness shall hereafter be excluded by reason of incapacity from crime or interest from giving evidence either in person or by deposition, according to the practice of the Court, on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or proceeding, civil or criminal, in any Court, or before any Judge, Commissioner, Jury, Sheriff, Coroner, Magistrate, Officer, or person having by law or by consent of parties, authority to hear, receive, and examine evidence, but that every person so offered may and shall be admitted to give evidence on oath, or solemn affirmation, in those cases where affirmation is by law receivable, notwithstanding that such persons may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question, or inquiry, or of the suit, action, or proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence—Provided that, this Ordinance shall not render competent any party, to any suit, action, or proceeding who shall be individually named in the record, or shall be virtually included as a co-defendant on the record in any proceeding against a copartnership under the authority of any local ordinance, or any lessor of the plaintiff, or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance or any person in whose immediate or individual behalf any action may be brought or defended, either wholly or in part, or the husband or wife of such persons respectively—Provided also, that this Ordinance shall not be held to affect the admissibility as a witness of a mere agent though a party as aforesaid named in the record, nor to repeal any provision in a certain act passed in the Session of Parliament holden in the Seventh year of the reign of his late Majesty and in the First year of the reign of her present Majesty, intituled “An Act for the amendment of the Laws with respect to Wills”—Provided also, that in Courts of Equity any defendant to any cause pending in any such court may be examined as a Witness on the behalf of the plaintiff or of any co-defendant in any such cause, saving just exceptions, and that any interest which such defendant so to be examined may have in the matters, or any of the matters in question in the case shall not be deemed a just exception to the testimony of such defendant, but shall only be considered as affecting or tending to affect the credit of such defendant as a witness.

II. And be it enacted, that wherever, in any legal proceedings whatever, legal proceedings may be set out, it shall not be necessary to specify that any particular persons who acted as Jurors had made affirmation instead of oath, but it may be stated that they served as jurymen in the same manner as if no act had passed for enabling persons to serve as Jurymen without oath.

III. And be it enacted, that whenever by any act now in force, or hereafter to be in force, any certificate, official or public document or proceeding of any corporation or joint stock, or other company, or any certified copy of any document, by law, entry in any Register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any Court of Justice, or before any legal tribunal, or in any judicial proceeding, the same shall be respectively admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature, or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

IV. And be it enacted, that all courts, judges, justices, masters of courts, commissioners judicially acting, and other judicial notice of the signature of any equity or common law judge of the civil court, or chairman of Quarter Sessions, of this colony respectively, provided such signature be attached or appended to any decree, order, certificate, or other judicial or official document.

V. And be it enacted, that all copies of private and local and personal acts or ordinances of the legislature of this colony, purporting to be printed by the government printer, and of proclamations by His Excellency the Governor, purporting to be printed by the government printer, or by any person authorised to act as such for the time, shall be admitted as evidence thereof by all courts, judges, justices, and others, without any proof being given that such copies were so printed.

VI. Provided always and be it enacted, that if any person shall forge the seal, stamp, or signature of any such certificate, official or public document, or document or proceeding of any corporation, or joint stock or other company, or of any certified copy of any document, by law, entry in any register or other book, or other proceeding as aforesaid, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation, or joint stock or other company, or any certified copy of any document, by law, false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp, or signature be those of or relating to any corporation or company already established, or of or relating to any corporation or company to be hereafter established, or if any person shall forge the signature of any such judge, commissioner, or other officer as aforesaid, to any order, decree, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document with a false or counterfeit signature of any such judge, commissioner, or other officer as aforesaid thereto, knowing the same to be false or counterfeit, or if any person shall print any copy of any private act or ordinance as aforesaid, which copy shall falsely purport to have been printed by the government printer, or by any other person so authorised as aforesaid, or shall tender in evidence any such copy, knowing that the same was not printed by the person or

persons by whom it so purports to have been printed, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not more than three nor less than one year, with hard labor—provided also, that whenever any such document as before mentioned shall have been received in evidence by virtue of this ordinance, the court, judge, commissioner, or other person officiating judicially who shall have admitted the same shall, at the request of any party against whom the same is so received, be authorised, at its or his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court, or other proper person, until further order touching the same shall be given either by such court, or the court to which such master or other officer belonged, or by the person or persons who constituted such court, or by the commissioner, or other officer as aforesaid, on application being made for that purpose.

FREDERICK CHIDLEY IRWIN,
Governor and Commander-in-Chief
Passed the Council, }
2nd Sept, 1847. }
WALKINSHAW COWAN,
Clerk of the Councils.

NO. XV.

An Ordinance to diminish the dangers resulting from Bush Fires.

Whereas it is expedient so far as may be possible to prevent the evils which result from what are commonly called “Bush Fires”—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 any person who shall be convicted of either wilfully or through carelessness setting fire to any grass, stubble, scrub, or other natural vegetation whatsoever, at any time between the first day of September in any year and the first day of April in the year next thereafter following, shall forfeit and pay for every such offence a sum not exceeding £50.

II. Provided always and be it enacted, that it shall be lawful for any lawful occupier of land to cause such fires to be made at any time upon the said land for any purpose whatsoever as shall not extend beyond the distance of ten yards from the place where the same shall first have been made, nor beyond the limits of such lands so held by him as aforesaid.

III. And be it enacted, that it shall be lawful for any such occupier of land as aforesaid to cause any such fires to be made at any time between the first day of February and the first day of April in each year as shall not extend beyond the limits of the land so occupied by him as aforesaid.

IV. And be it enacted, that where the person unlawfully causing any such fire as aforesaid shall be an aboriginal native of this colony, or a boy under the age of sixteen years, it shall be lawful for the convicting justices at their discretion in lieu of other punishment to order that he be publicly flogged receiving any number of lashes not exceeding fifty.

V. Provided always and be it enacted, that no conviction, payment of penalty or endurance of punishment under this ordinance shall be a bar to any civil proceeding by action or otherwise, on the part of any person sustaining damage by any such fire, as aforesaid, for recovery of compensation for such damage.

VI. And be it enacted, that all informations and proceedings for offences against this ordinance shall be commenced within three calendar months after the offences thereby respectively charged shall have been committed and shall be heard and determined, and the forfeitures and penalties in respect of the same shall be awarded and enforced in summary manner before

any two justices of the peace according to the provisions of an act passed in the seventh year of the reign of Her present Majesty entitled "an act to regulate summary proceedings before justices of the peace."

VII. And be it enacted, that if any person shall think himself aggrieved by any conviction under this ordinance awarding a pecuniary penalty exceeding ten pounds, he may appeal therefrom to the next Court of Quarter Sessions.

FREDERICK CHIDLEY IRWIN,
Governor and Commander-in-Chief.
Passed the Council, }
2nd Sept., 1847. }
WALKINSHAW COWAN,
Clerk of the Councils.

Colonial Secretary's Office, Perth,
September 30, 1847.

His Excellency the Governor directs it to be notified for general information, that in consequence of the experience which has been had, and the representations which have been made, of the inefficient working of [the General Road Trust system, and also taking into consideration the additional expenditure which may be expected to arise from the proposed charge upon Sandalwood, he has deemed it expedient to introduce a measure to the Legislative Council, by which the functions of the General Road Trust should be transferred to a Central Board, who should have power to appoint Local Committees. His Excellency, however, considers this measure so important, and so intimately connected with the interests of the settlers, that it is his intention to give ample time for its consideration by the public, before the final reading of the Ordinance. The Bill will be read a first time on Monday, Oct. 11th.

The Bill concerning Sandalwood will be deferred to follow the above Bill.

By His Excellency's command,
G. F. MOORE,
Colonial Secretary.

Colonial Secretary's Office, Perth,
September 24, 1847.

In order to give the earliest notice of the system about to be adopted with regard to Licenses to cut Sandal Wood on Crown Lands, His Excellency the Governor has directed the following abstract of the Regulations to be published for general information:—

1.—No sandal wood is to be cut under any general timber licence issued after this date.

2.—The application for a licence to cut

sandal wood must mention the District in which it is intended to cut.

3.—The licence is to cover both cutting and removal, and all wood remaining on the ground at the expiration of the licence is to be the property of the Government.

4.—No licence will be given for a shorter period than three months in the first instance, but it will be renewable from month to month, on application ten days before its expiration.

5.—The price chargeable, payable in advance, is at the rate of £2 10s. per month for two men, and £1 5s. per man additional.

6.—All men engaged in cutting, lopping, loading, or carting sandal wood on crown lands are to have a licence, or to carry a ticket from a licensed person, in a form to be specified. This ticket may be cancelled and a new one issued.

7.—Any licensed person finding wood cut which is not protected by an existing licence, may apply to a Justice of the Peace, and receive an order to seize and appropriate the same to his own use.

8.—Licenses may be issued by the Collector of Revenue, or by a Resident Magistrate of the District.

9.—All licenses issued, and all tickets cancelled, are to be published in the *Gazette*.

The Government will also be ready to receive any special proposal for lease or purchase of the exclusive right to cut any particular sandal wood, which may suit the views of individuals.

By His Excellency's command,
G. F. MOORE,
Colonial Secretary.

Colonial Secretary's Office, Perth,
September 30, 1847.

His Excellency the Governor directs it to be notified for the information of all whom it may concern that James Payne has applied for a Depasturing License for 6,000 acres on the Ferguson River, adjoining the land held in fee simple by James Henty, Esq., and known as Wellington location No. 9.

By His Excellency's command,
G. F. MOORE,
Colonial Secretary.

Colonial Secretary's Office, Perth,
September 24, 1847.

His Excellency the Governor has directed the publication of the following report of Licenses issued during the week ending 20th September:—

Timber Licenses.—One Month.
T. N. Yule—from Sept. 1 (2 men)

J. Harris— " 15 (4 men)
Messrs. Habgood " 16 (2 men)
T. Ellis— " 17 "
J. Hancock " 17 "

By Resident at Toodyay.

R. Waters—from Sept. 4

T. Lockyer—from Sept. 8

J. Wheelock—from Sept. 10.

Depasturing Licenses.

Messrs. W. S. & L. Burges, 12,000 acres
Avon

Ditto Ditto

By His Excellency's command,
G. F. MOORE,
Colonial Secretary.

Colonial Secretary's Office, Perth,
September 15, 1847.

Depasturing License.

His Excellency the Governor directs it to be notified for the information of all whom it may concern, that Messrs. Carter have applied for a Depasturing License for 12,000 acres, Williams District, adjoining the following lands granted in fee simple:

Williams Location, D 5,120 acres W Tanner
" O, 2,560 " G. Leake
" I, 2,000 " J R Phillips
" E, 4,574 " MacDermott
" P, 4,574 " "

By His Excellency's command,
G. F. MOORE,
Colonial Secretary.

Colonial Secretary's Office, Perth
September 13, 1847.

His Excellency the Governor directs it to be notified for general information, that the following applications for Depasturing Licenses have been received:—

4,000 acres, W. Padbury, Swan River district, adjoining Locations 108 and 109, granted in fee to G. F. Moore, Esq.

12,000 acres, J. Yorke, Swan River district, adjoining Location 96, granted in fee to W. L. Brockman, Esq., and Nos. 108 and 109 granted in fee to G. F. Moore Esq.

By His Excellency's command,
G. F. MOORE,
Colonial Secretary.

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