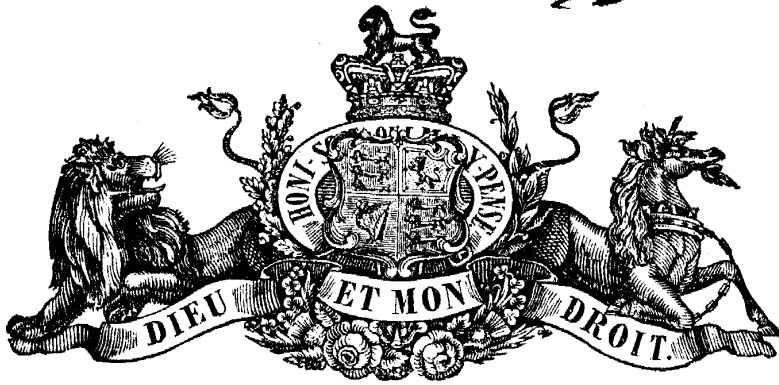


See No 43 of 76, Sec 93



ANNO VICESIMO SEPTIMO ET VICESIMO OCTAVO

VICTORIÆ REGINÆ.

A.D. 1864. *Am'd by No 15 of '74*
Repeal: 357 of 85

No. 18.

An Act to repeal Act No. 14 of 1854, intituled "An Act to make provision against the danger of Bush and other Fires," and to make other provisions in lieu thereof.

[Assented to, 9th December, 1864.]

WHEREAS it is expedient to repeal an Act, No. 14 of 1854, Preamble.
intituled "An Act to make provision against the danger of Bush and other Fires," and to make other provisions in lieu thereof for the prevention of injury to property occasioned by fires, and for the punishment of persons who shall wilfully and negligently occasion any fires—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. An Act, No. 14 of 1854, intituled "An Act to make provision Repeal of Act.
against the danger of Bush and other Fires," is hereby repealed; save so far as is necessary to enable any penalty to be imposed, enforced, or recovered, or punishment to be inflicted for any offence against the said Act heretofore committed.

2. No fire shall be lighted for the burning of stubble, hay, or grass, between the first day of November and the fifteenth day of April, unless between the hours of ~~sun~~ and ten in the afternoon: Provided that nothing herein contained shall be construed to repeal or alter the 114th section of "The District Councils Act, 1858," or to interfere with or take away the powers thereby given to District Councils, to alter and vary the hours within which such fires may be lighted, as in such section is mentioned: Provided also that

No stubble burned during certain months, unless between ~~sun~~ and ten p.m.

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that it shall be lawful for any District Council, within such limits of its own district as it may deem fit, to fix the time of the prohibition aforesaid, so as to make it applicable to a period extending from the first day of December to the fifteenth day of March.

Penalty for neglecting precaution.

3. If any person shall burn, or suffer to be burnt, any stubble, hay, or grass, upon his land, without having given one day's notice, at least, to the owner or occupier of any land or buildings which shall immediately adjoin the field or place of such burning, and who may reside thereon or within five miles thereof, of his intention to burn the same; or if any person holding an annual licence for depasturing purposes within any Hundred shall burn, or suffer to be burnt, any grass or other herbage, or any scrub or timber growing upon the lands within such Hundred, without having given one day's notice at least to the Crown Lands Ranger of such Hundred of his intention to burn the same; or without providing, and having on the spot, at least four persons to assist in preventing the spread of any such fire; or without having ploughed or cleared at least three feet around the field or place where such burning shall take place, on the inside of the fence or boundary thereof; or within such period as aforesaid before six o'clock, or after ten o'clock in the afternoon, such person shall, upon conviction thereof, forfeit and pay a penalty of not less than Three Pounds, and not exceeding Ten Pounds.

Penalty for using ignitable wadding.

4. Any person who shall, between the first day of September and thirtieth day of April use, for the wadding of any gun, pistol, or other fire-arm carried by him, any paper, cotton, linen, or other ignitable substance, shall, upon conviction thereof, forfeit and pay a penalty of Five Pounds.

Persons carrying gun on land of another person, liable to examination.

5. If any person, within such period as last aforesaid, shall use or carry any gun, pistol, or fire-arm upon or over land the property of any other person, it shall be lawful for the owner or occupier of such land, or his servant, to examine such gun, pistol, or other fire-arm, for the purpose of ascertaining the nature of the wadding used therein; and any person refusing to allow of such examination, or who shall, upon the occasion thereof, refuse to disclose his name to such owner or occupier, or servant, or who shall give a false name, shall, upon conviction, forfeit and pay a penalty of not less than Two Pounds nor more than Five Pounds.

Penalty.

Travellers lighting fires to clear a space.

6. If any person shall light or use any fire in the open air for the purpose of cooking, bivouacing, or for any other purpose, without a space of ground around the same, of the radius of ten feet at least having been previously cleared of all grass, bushes, and leaves, or branches of trees; or having lighted or used any such fire, shall neglect fully and completely to extinguish the same before leaving the place, he shall, upon conviction, forfeit and pay a penalty of not less than Two Pounds, nor more than Five Pounds.

7. Every

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7. Every person who shall, at any time during the months of November, December, January, February, March, and April, smoke in the open air within twenty yards of any stable, or of any rick or field of hay, corn, straw, or stubble, unless within a town, shall, on conviction thereof, forfeit and pay a sum of not less than Ten Shillings, nor more than Two Pounds.

Smoking in the open air.

8. If any person, within the months of November, December, January, February, March, and April, shall employ gunpowder, or any other explosive mixture, for the purpose of blasting any trees, wood, or timber, without having at least four persons present, to prevent any fire arising therefrom, he shall, upon conviction thereof, forfeit and pay the sum of Five Pounds.

Trees not to be blasted

9. It shall be lawful for any Coroner, or Justice of the Peace, to hold an inquest, touching any bush or other fire happening within the said Province, and such inquest shall be held in the like manner, and the Coroner or Justice of the Peace holding the same shall have and exercise the like powers and authorities in all respects as are by law prescribed and conferred in cases of the finding of a dead body, or of sudden deaths.

Coroners or Justice may hold inquisition.

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10. Nothing in this Act contained shall take away or affect any right of action, or other remedy, which any person may have in respect of any loss or damage occasioned by any fire, or for any trespass committed.

Act not to affect any other remedies.

11. Every proceeding under this Act, for omissions, defaults, acts, or offences, to which any penalty is attached, shall be had and taken and may be heard and determined in a summary way, by any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of session, with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices of the Peace, with respect to summary convictions and orders, and all convictions and orders may be enforced, as in the said Ordinance is mentioned.

Summary procedure.

12. There shall be an appeal from any conviction by any Special Magistrate or Justices of the Peace, for any offence against this Act, or from any order dismissing any information or complaint, or from any order for payment of money, whether for costs or otherwise; which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts; but the Local Court of Adelaide aforesaid may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

Appeal to Adelaide Local Court of Full Jurisdiction.

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Appropriation of penalties.

13. All moneys received for penalties imposed for offences against this Act, shall be paid to the Treasurer on behalf of Her Majesty, Her heirs, and successors, for the public uses of the said Province, and in support of the Government thereof, except moneys received in respect of any offence committed within the limits of any Corporation or District Council in which case the same shall be paid over to the Corporation or District Council within whose limits such offence was committed, for the use of the said Corporation or District.

Not to affect Municipal Corporations Act, 1861.

14. Nothing in this Act contained shall be construed so as in any way to repeal or vary any of the provisions of "The Municipal Corporations Act, 1861," or to interfere with or take away all or any of the powers and authorities thereby conferred on the respective Councils of the several corporate cities and towns to which such Act has been, or may hereafter be, extended within the limits of such cities and towns respectively.

Short title.

15. This Act may be cited as "The Bush Fires Act, 1864."

In the name and on behalf of the Queen I hereby assent to this Act.

D. DALY, Governor.