

No. IV.

An Act to restrain the unauthorized occupation of Crown Lands. [29th July, 1836.]

CROWN LANDS
UNAUTHORIZED
OCCUPATION.

WHEREAS the unauthorized occupation of the unalienated Crown Lands of New South Wales is derogatory to the rights of His Majesty and His Successors and conducive to many illegal and dishonest practices and whereas the laws now in force are insufficient for the speedy and effectual removal of intruders upon such lands Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the first day of January next any person who shall be found occupying any Crown Lands lying waste in New South Wales within the limits allotted for location by the Government Order of the fourteenth day of October one thousand eight hundred and twenty-nine either by residing or by erecting any tent hut or building thereon or by clearing enclosing or cultivating any part thereof shall on conviction thereof forfeit and pay the following penalties that is to say for the first offence any sum not exceeding ten pounds at the discretion of the Justice or Justices before whom the complaint shall be heard for the second offence twenty pounds and for the third and any subsequent offence fifty pounds to be recovered in a summary way before any one or more Justice or Justices of the Peace upon the information and complaint on oath of any Commissioner of Crown Lands Provided always that no information shall lie for any second or subsequent offence until one month after a conviction for the former offence.

Preamble.

Penalties for un-authorized occupa-
tion of Crown Lands.

Proviso as to subse-
quent offences.

2. And be it declared and enacted That from and after the said first day of January next ensuing it shall not be lawful for any person to occupy any Crown Lands in New South Wales beyond the limits allotted as aforesaid without having first obtained a license for such purpose in conformity with the Government Regulations in such case made and provided and that any person who shall be found occupying as aforesaid any Crown Land in New South Wales beyond the limits allotted as aforesaid and shall not hold a valid license from the Government of New South Wales for depasturing cattle and other animals beyond the limits as aforesaid every such person on conviction thereof shall forfeit and pay the penalties hereinbefore imposed in the case of persons unlawfully occupying waste lands of the Crown within the said limits of location.

Penalty for occu-
pying Crown Lands
beyond the limits of
location without a
license.

3. And be it enacted That if any person shall forge counterfeit or alter or shall utter or make use of knowing the same to be forged counterfeited or altered any lease license or other document purporting to be an authority from the Government of New South Wales to occupy any Crown Lands within the same with intent to evade any

Penalty for forging
any lease or license
to occupy Crown
Lands.

of

Crown Lands unauthorized Occupation.

of the provisions of this Act such person shall if free be guilty of a misdemeanor and being convicted thereof shall be liable to be transported for any term not exceeding seven years or to be imprisoned for any term not exceeding four years at the discretion of the Court and if such offender be a convict under sentence of transportation he shall be liable to be transported for any term not exceeding seven years or to be worked in irons on the roads or public works of the said Colony for any term not exceeding four years.

Proceedings not to affect titles to land.

4. And be it enacted That no proceeding had or conviction obtained under this Act shall be held to determine the title to any lands or tenements.

For protecting persons acting in the execution of this Act.

5. And for the protection of persons acting in the execution of this Act Be it enacted That all actions and prosecutions under this Act shall be commenced within three calendar months after the fact was committed and not otherwise and notice in writing of such action and the cause thereof shall be given to the defendant one calendar month at the least before the commencement of the action and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant together with costs incurred up to that time and if a verdict shall pass for the defendant or the plaintiff become nonsuit or discontinue any such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in other cases and though a verdict shall be given for the plaintiff in any such action such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Appropriation of fines.

6. And be it enacted That all fines recovered under this Act shall be levied in the manner provided by an Act of the said Governor and Council passed in the fifth year of His present Majesty's reign intituled "*An Act to regulate summary proceedings before Justices of the Peace*" and shall be paid to the use of His Majesty His Heirs and Successors for the public uses of the said Colony and in support of the Government thereof.

Commencement and duration of Act.

7. And be it further enacted That this Law or Ordinance shall commence and take effect from the said first day of January next ensuing and shall be and continue in force until the thirty-first day of December in the year one thousand eight hundred and thirty-eight.