

Amended: No. 409 of '87

No. 517 of 91, S. 1



ANNO VICESIMO QUINTO ET VICESIMO SEXTO

VICTORIÆ REGINÆ.

A.D. 1862.

No. 26.

An Act for preventing the further Spread of the Scotch Thistle, Variegated Thistle, and Bathurst Bur.

[Assented to, 21st October, 1862.]

WHEREAS it is desirable that measures be taken to prevent the further diffusion of the Scotch thistle, variegated thistle, and Bathurst bur—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:—

Preamble.

1. Act No. 15 of 15th Victoria is hereby repealed, except so far as may be necessary to enable any penalty incurred under such Act to be recovered.

Repeal of Act No. 15 of 15 Vic.

2. If, at any time after the passing of this Act, any owner or occupier of land within the said Province, upon which land, or upon the adjacent half of any road, any of the plants commonly known in the said Province as the Scotch thistle, variegated thistle, and Bathurst bur shall be growing, shall not within twenty-one days after any notice in writing that any of such plants are growing upon such land, or upon such adjacent half of any road, signed by any Chairman of any Board of Roads, or of any District Council, or Corporation, or by any Clerk of such Board, or District Council, or Corporation, within its district, or by any Justice of the Peace, or, where there is no Board of Roads, District Council, or Corporation, any Crown Lands Ranger or Police officer, or any person authorized in writing by the Commissioner of Crown Lands and Immigration, shall have been served upon such owner or occupier,

Penalty for not destroying plants after notice.

pier, or left for him at his usual or last known place of abode, effectually destroy all of such plants then growing and being upon such land, or upon such adjacent half of the road, every such owner or occupier, being convicted thereof, shall be liable to a penalty not exceeding Ten Pounds and such penalty may be recovered, and the matter thereof heard and determined, by two or more Justices of the Peace in a summary way: Provided that in the case of sheep or cattle runs, the said notice shall specify as nearly as possible upon what portion or portions of the land the plants are growing: Provided, also, that it shall be lawful for any such Justices to suspend any conviction, upon being satisfied that the person so receiving such notice has used, and is using, reasonable exertions to destroy such plants.

Where no occupier of land, notice may be given in *Government Gazette*.

3. If there be no occupier of any such lands, then notice as aforesaid may be given by advertisement in the *Government Gazette*, and every notice so given shall be deemed and taken to be sufficient notice to the owner of such land, from the time of its being so published as aforesaid: Provided that it shall not be necessary for such notice to specify the name of any person as owner of the land therein referred to, and provided also that no owner of any such land shall be liable to any payment beyond the expense of, and occasioned by, the destruction and eradication of the said plants upon such land, and upon such adjacent half of the road, as hereinafter provided, together with costs of the advertisement and the costs of suit.

If plants not destroyed within twenty-one days, parties may enter for the purpose of destroying them.

4. If any such owner or occupier shall, for such space of twenty-one days, refuse or neglect to destroy the plants specified in any such notice, it shall and may be lawful for any person authorized in that behalf by any Board of Roads, or District Council, or Corporation, within its district, or by any Crown Lands Ranger or Police officer where there is no Board of Roads, District Council, or Corporation, or by an order of any Justice of the Peace, to destroy and eradicate the same, and for that purpose with sufficient assistants to enter upon any lands in respect whereof any such notice shall have been given as aforesaid, and every such person shall be entitled to recover from such owner or occupier the expense of and attending such destruction and eradication, such expenses to be assessed and allowed by two or more Justices of the Peace, together with costs of the advertisement and the costs of suit by action or plaint in any court of competent jurisdiction, or by proceedings in a summary manner before two or more such Justices; and which action, plaint, or proceedings may be commenced, instituted, had, and taken in the name of the person so authorized, or by any person interested.

Justice to act upon complaint duly made.

5. Upon the complaint duly made to any Justice of the Peace, or any Crown Lands Ranger, that any such plants are suspected to be upon any land, whether in private occupation, or being waste and unoccupied lands of the Crown, such Justice, or Crown Lands Ranger, may make an order for the party complaining, or for some other person to enter upon such land to search and ascertain if there are any such plants thereon, or as the case may be, may sign such notice to

to the owner or occupier of any land as hereinbefore provided, and also upon being satisfied that such notice has been served, or left, or published in the *Government Gazette* as herein provided, may make order for the destruction and eradication, by some person to be named in such order, of any such plants as aforesaid: Provided that any such plants upon Waste Lands of the Crown under the management of District Councils and Corporations shall be eradicated by order and at the expense of such Councils and Corporations.

6. It shall be lawful for any person authorized in that behalf by such order of any Justice of the Peace, or Crown Lands Ranger, without notice, to enter upon lands, save as herein excepted, for the purpose of ascertaining if any such plants are thereon, and no such person shall be deemed a trespasser by reason of such entry, or be liable for any damage thereby occasioned, unless the same was occasioned by such person wilfully and without necessity: Provided that no order shall be given authorizing any person to enter into any gardens, orchards, or growing crops, for the purpose of such search.

Persons authorized may enter upon land to search for plants.

7. When any such plants shall be growing upon any waste and unoccupied lands of the Crown, not under the management of District Councils or Corporations, such notice as aforesaid shall be left at the office of the Commissioner of Crown Lands, and shall describe and set forth the situation of such land; and the Commissioner of Crown Lands shall forthwith employ the necessary laborers, and continue to destroy and eradicate the said plants; and in the event of the neglect or refusal of such Commissioner of Crown Lands to destroy and eradicate such plants, and of the destruction and eradication thereof by any person authorized in that behalf as hereinbefore provided, it shall be lawful for the Governor, by warrant under his hand, to direct the Treasurer, out of the Ordinary Revenue, to pay to the party entitled to receive the same, the expenses of and attending such destruction and eradication as aforesaid.

Plants growing upon waste lands of the Crown may be eradicated by Commissioner of Crown Lands, or expenses of eradication be repaid by Governor.

8. All penalties recoverable under this Act shall be payable one half to the person laying the information or complaint, and one half to Her Majesty, Her heirs and successors, for the public uses of the said Province, excepting in cases where any such information or complaint shall be laid at the instance of any District Board of Roads, or of any Corporation or District Council, when the whole of such penalty shall be paid to such Board of Roads, Corporation, or District Council, in aid of the funds of such District Board, Corporation, or District Council: Provided that it shall be lawful for the Governor to remit the whole or any part of such penalty.

Appropriation of penalties.

9. This Act may be cited as "The Thistle and Bur Act of 1862."

Short title.

In Her Majesty's name I assent to this Bill.

D. DALY, Governor.