



ANNO QUADRAGESIMO OCTAVO ET QUADRAGESIMO
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VICTORIÆ REGINÆ.

A.D. 1885.

No. 345.

An Act to prevent the Introduction, and to provide for the
Destruction, of certain Insects, and the Eradication
of Diseases which injuriously affect Vegetation.

[Assented to, November 11th, 1885.]

WHEREAS it is expedient to provide measures for preventing Preamble.
the introduction and for the destruction of insects, and
eradication of diseases which injuriously affect trees, fruits, plants,
and vegetables—Be it therefore Enacted by the Governor 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. This Act may be cited for all purposes as “The Vine, Fruit, Short title.
and Vegetable Protection Act, 1885.”

2. The “Vines Protection Act, 1874,” and Act No. 114 of Repeal.
1878, intituled, “An Act for the Prevention and Eradication
of Diseases in Vines,” are hereby repealed: Provided that all Saving clause.
Proclamations issued by the Governor under the authority of the
“Vines Protection Act, 1874,” in force at the time of the passing of
this Act, shall continue to be in force until revoked under this Act,
and that all offences against the said Acts, or either of them,
punishable by imprisonment or fine or penalty, committed before
the revocation of any such Proclamation, shall be punishable in the
same manner as if this Act had not been passed; and that all
inspectors holding office under Act No. 114 of 1878, at the time of
the coming into operation of this Act, shall be inspectors under
this Act, and shall have all the powers by this Act conferred upon
inspectors:

3. In

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Interpretation.

3. In the interpretation and for the purposes of this Act, the following words in inverted commas shall have the meanings hereinafter assigned to them, respectively, that is to say—

“Commissioner” shall mean the Commissioner of Crown Lands and Immigration, for the time being, of the Province, and any person for the time being acting as such:

“Disease” shall mean any of the diseases caused by insects (as defined in this section), and any other disease affecting trees, plants, or vegetables, which the Governor shall from time to time, by Proclamation in the *Government Gazette*, declare to be a disease within the meaning of this Act:

“Insect” shall mean any of the insects known as *phylloxera vastatrix*, *carpocapsa pomonella* or “Codlin moth,” *aspidiotus aurantii* or “Round orange scale insect,” and *doryphora decemlineata* or “Colorado beetle,” and any other insect which the Governor shall from time to time, by Proclamation in the *Government Gazette*, declare to be an insect within the meaning of this Act:

“Tree or plant” shall mean any tree or plant of the kind whereof the introduction into the province shall be prohibited or regulated under this Act, and shall extend to the fruit or other product of such tree or plant, and to every part of such tree, plant, fruit, or product.

Governor may prohibit introduction of trees, &c., liable to disease.

4. The Governor may, from time to time, by Proclamation in the *Government Gazette*, do any of the following acts:—

(a) Revoke, either wholly or partially, any Proclamation in force at the time of the coming into operation of this Act:

(b) Prohibit the introduction into the province of any insect:

(c) Prohibit, either absolutely or subject to any regulations that he may think proper, the introduction into the province of any tree or plant or any other thing which, in his opinion, may be likely to introduce any disease or insect into the province: and

(d) Make such regulations as he may think proper for carrying into effect the provisions of this Act, and for the destruction in the province of any insect or the eradication of any disease.

And may make regulations.

Plants, &c., introduced contrary to Proclamation or regulation may be destroyed.

5. Any insect, tree, plant, or other thing landed in or otherwise introduced into the province, or attempted to be landed in or otherwise introduced into the province, in contravention of any such Proclamation or regulation, may, together with any package or case containing the same, or with which the same may have come into contact, be seized by any person authorised by the Commissioner, and be destroyed by fire or otherwise, without compensation to the owner, or any other person.

6. Every

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- 6.** Every person who shall, during the continuance of any prohibition, land in or otherwise introduce into the province, or attempt to land in or otherwise introduce into the province, or be concerned in landing in or otherwise introducing into the province any insect, tree, plant, or other thing contrary to any such Proclamation, or, except in accordance with the regulations for the time being in force, or who shall keep, or sell, or expose, or offer for sale, or in any manner cause the distribution of any living insect of the kind prohibited in any stage of existence, shall, on conviction for every such offence, forfeit and pay a sum of not less than Five Pounds nor more than One Hundred Pounds, or be liable to be imprisoned for any period not exceeding six months.
- Penalty for breach of Proclamation or regulations.
- 7.** The Commissioner may from time to time appoint such persons as he may deem fit to be inspectors under this Act, and may from time to time dismiss or remove any inspector.
- Inspectors may be appointed.
- 8.** Every inspector may, without notice, and with or without such assistants as he may think fit, enter at all times into and upon any lands and buildings, or upon any vessel on or in which any tree or plant shall be, or shall be suspected to be, and may examine and remove any such tree or plant for the purpose of ascertaining if the same is injuriously affected by any insect or disease, and may erect such land or other marks as he may think necessary or desirable for the purpose of indicating that any tree or plant has been removed for examination under this Act, or is so injuriously affected.
- Powers of inspectors to enter.
- 9.** If any inspector shall be of opinion that any kind of tree or plant is injuriously affected by any insect or disease, he shall report the same to the Commissioner, who may authorise the Inspector to take all such measures for the eradication of the insect or disease, whether by destruction of the tree or plant or otherwise, as the case may in the opinion of the inspector require; and it shall be lawful for every such inspector to direct any person in occupation of any land on which any disease or insect shall exist to take such measures and do such acts as the inspector may determine for the eradication or destruction of such insect or disease.
- Commissioner may authorise inspector to destroy diseased plants, &c.
- 10.** No inspector under this Act, nor any person authorised by him, shall be deemed to be a trespasser by reason of any entry or removal under this Act, or be liable for any damage occasioned in carrying out the provisions of this Act; nor shall any person be entitled to receive any compensation whatsoever in consequence of any measures taken for the eradication of any insect or disease, or in respect of any loss or injury that may result to him therefrom, either directly or indirectly.
- No compensation allowed for damage occasioned by carrying out this Act.
- 11.** No land or other marks erected, under section 8 of this Act by order of any inspector, shall be taken up or otherwise interfered with
- Penalty for removing land marks or planting vines on infected land.

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with by any person without the written authority of an inspector under this Act; and no grape vines shall be planted or permitted to grow in any part of any land from which part any grape vine shall have been removed, as aforesaid, during the period of five years after such removal without the authority of the Commissioner. Any person who shall commit a breach of this section shall be liable on conviction thereof to a penalty of not less than Ten Shillings, nor more than Ten Pounds, or to be imprisoned for any period not exceeding one month; and all grape vines planted or growing on any land contrary to this section shall be destroyed.

Penalty for obstructing inspectors.

12. Every person who shall in any manner obstruct or impede any inspector, or person acting under the direction of an inspector, in the execution of his powers under this Act, or who shall refuse or neglect to carry out any lawful direction of any inspector, shall, for every such offence be liable, on conviction thereof, to a penalty not exceeding Fifty Pounds, or to imprisonment for any term not exceeding three months, with or without hard labor.

Penalties recoverable by information.

13. All fines and penalties for any offence against or breach of this Act, or any Proclamation or regulation made under the authority of this Act, may be recovered before any two or more Justices of the Peace in a summary way, on information by the Commissioner or any inspector under this Act.

Gazette evidence of appointment of Inspectors.

14. The production of the *Government Gazette* containing any notice of the appointment of any person to the office of inspector under Act No. 114 of 1878, or under this Act, shall be evidence of such appointment.

Gazette evidence of Proclamation and regulations.

15. The production of the *Government Gazette* containing any Proclamation under the "Vines Protection Act, 1874," or any Proclamation or regulation under this Act, shall be evidence in all courts of law and equity of the existence of such Proclamation or regulation, and that the same has been lawfully made.

Application of No. 6 of 1850.

16. The proceedings before Justices shall be conducted as appointed by, and shall be regulated under, the Ordinance No. 6 of 1850, intituled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders;" or of any other Act for the time being in force relating to the duties of Justices of the Peace with respect to summary convictions and orders; and the payment of any fines, or penalties, payable under this Act may be enforced by distress or imprisonment, or both, as provided by the said Ordinance.

Appeal to nearest Local Court of Full Jurisdiction from order made by Justices.

17. There shall be an appeal from any conviction by Justices for any offence against this Act, or from any order dismissing an information under this Act; which appeal shall be to the Local Court of Full Jurisdiction nearest to the place or Court where the original proceedings were commenced; and the proceedings in such appeal shall

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shall be conducted in manner appointed by the said Ordinance No. 6 of 1850, or any Act to amend the said Ordinance, for appeals to Local Courts; and the said Local Court may make such order as to payment of costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

18. It shall be lawful for any Local Court of Full Jurisdiction, upon the hearing of any appeal under the last preceding section, to state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases, according to the practice of the Supreme Court on special cases; and the Supreme Court shall make such order as to the costs of any such special case as to the said Court shall appear just; and any two or more Justices, or any Local Court of Full Jurisdiction, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any Judge thereof, which order of the Justices of the Peace or Local Court shall be enforced in manner provided by this Act for the enforcement of orders of Justices of the Peace; and, save as herein provided, no order or proceeding of Justices, or of any Local Court made under the authority of this Act, shall be appealed against or removed by *certiorari* or otherwise into the Supreme Court of the said Province.

Local Court of Full Jurisdiction may state a case for opinion of Supreme Court.

19. All actions against any inspector, or other person acting in the execution of this Act, for anything done in pursuance of this Act, shall be commenced within four months after the happening of the cause of action, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action, and the defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at the trial; and the plaintiff shall not recover in such action if tender of sufficient amends shall have been made before action brought, or if after action brought the defendant shall pay into Court sufficient amends; but in such last-mentioned case the plaintiff shall recover his costs of suit up to the time of payment into Court, and if the defendant shall obtain a verdict, or the plaintiff become nonsuit or discontinue, or the defendant shall otherwise recover judgment, he shall recover full costs as between attorney and client upon such judgment.

Protection to inspectors and others acting in execution of this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

JAS. P. BOUCAUT, Deputy Governor.