



ANNO QUINQUAGESIMO QUARTO ET QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

A.D. 1891.

No. 524.

An Act to authorise the construction of a Dog and other Vermin Proof Fencing from Morgan to Nackara.

[Assented to, December 19th, 1891.]

BE it 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. In this Act the expression—

Definition.

“ Commissioner ” shall mean the Commissioner of Crown Lands of the said province for the time being :

“ Owner ” shall mean the owner or occupier of land which shall have been alienated from the Crown in fee simple, the holder or occupier of land held under any agreement for purchase from the Crown, and the lessee or occupier of any land which shall have been leased by the Crown under any Crown Lands Act heretofore passed.

2. The Commissioner may erect a dog and other vermin proof fence, and may place such gates therein as he may think desirable, commencing at the south-western corner of the Hundred of Stuart ; thence northerly along portion of the eastern boundary of the Hundred of Eba, and north along the east boundary of the Hundred of Lindley to the north-east corner of said hundred ; thence west along the north boundaries of the hundreds of Lindley and Schomburgk to the north-west corner of the latter hundred ; and thence north along the east boundaries of the hundreds of King, Rees, Tomkinson, Ketchowla,

Commissioner to erect dog and vermin proof fence.

Morgan to Nackara Dog-proof Fencing Act.—1891.

Ketchowla, Hardy, and Nackara, and portion of the east boundary of the Hundred of Paratoo, to the southern side of the Petersburg and Cockburn railway line; and for that purpose the said Commissioner, or any contractor authorised by him, and all necessary servants and workmen, and with horses, carts, engines, and machinery, shall have power to enter upon any lands within twenty miles to the east or west of the line of the said fence, and may temporarily occupy any portion of the said lands while engaged in the erection of the said fence: Provided always that the Commissioner may deviate from the line of the said fence above set out to an extent of not exceeding two miles on either side of the said line.

Proviso.

Fence to be property of Crown.

The said fence when erected shall be and remain the property of Her Majesty the Queen.

Owners of land adjacent to fence to contribute to the cost of erection.

3. Every owner of land within twenty miles to the east or west of the line of the said fence, and every owner of land in those portions of the hundreds of Bunday and Bright hereinafter described, shall pay to the Commissioner the following contributions towards the cost of and about the erection of the said fence, that is to say—

- i. The owner of any land to the west of the line of the said fence, and not more than five miles from the line of the said fence, one penny for each acre of such land:
- ii. The owner of any land to the west of the line of the said fence, more than five miles and not more than ten miles from the line of the said fence, three-fourths of a penny for each acre of such land:
- iii. The owner of any land to the west of the line of the said fence, more than ten miles and not more than fifteen miles from the line of the said fence, one-half of a penny for each acre of such land:
- iv. The owner of any land to the west of the line of the said fence, more than fifteen miles and not more than twenty miles from the line of the said fence, one-quarter of a penny for each acre of such land:
- v. The owner of any land to the east of the line of the said fence, not more than eight miles from the line of the said fence, three-twentieths ($\frac{3}{20}$) of a penny for each acre of such land:
- vi. The owner of any land to the east of the line of the said fence, and more than eight miles and not more than twenty miles from the line of the said fence, one-tenth ($\frac{1}{10}$) of a penny for each acre of such land:
- vii. The owner of any land in the Hundred of Bunday, within a radius of five miles from the north-east corner of the said hundred, one penny for each acre of such land. The owner of any land in the said hundred distant more than five miles and not more than ten miles from the north-east corner

Morgan to Nackara Dog-proof Fencing Act.—1891.

corner of the said hundred, three-fourths ($\frac{3}{4}$) of a penny for each acre of such land. The owner of any land in any of the hundreds of Bunday and Bright, distant more than ten miles and not more than fifteen miles from the north-east corner of the said Hundred of Bunday, one-half ($\frac{1}{2}$) of a penny for each acre of such land. The owner of any land in any of the hundreds of Bunday and Bright, distant more than fifteen miles and not more than twenty miles from the north-east corner of the said Hundred of Bunday, one-fourth ($\frac{1}{4}$) of a penny for each acre of such land: Provided that if the contribution under this section shall amount to more than the total cost of the fence when complete, any balance shall be applied to the maintenance of the fence, and no rates shall be levied under section 7 hereof until such balance is absorbed.

4. As soon after the passing of this Act as shall be practicable the Commissioner shall give notice to the owners of lands within the limits hereinbefore described, by notice published in the *Government Gazette*, of the amount which each owner is liable to pay, and may by such notice demand payment of such amount within thirty days after publication of such notice.

After passing of Act, Commissioner to give notice of amount owners liable to pay.

5. Thirty-one days after the publication of such notice the amount payable by each such owner shall become a debt due from such owner to the said Commissioner. Such debt shall be a first charge upon the land in respect of which the same shall be due.

Thirty-one days from notice, amount due to become a debt due to Commissioner.

The Commissioner, or any person authorised by him, may, in default of payment of the said amount within thirty days after publication of the said notice, enter upon the lands of the owner and levy the amount of the said debt by distress and sale of any goods and chattels upon such land.

The Commissioner may recover the amount of such debt, together with such costs as may be awarded by action in any Court of competent jurisdiction; and the production of the *Government Gazette* containing any notice of the amount of such debt shall be *primâ facie* evidence of such debt.

6. The following district councils shall be charged with the duty of keeping the following portions of the said fence in repair, that is to say:—

Duty of district councils to keep fence in repair.

The District Council of Morgan, that portion of the said fence on portion of the eastern boundary of the Hundred of Eba, on the eastern boundary of the Hundred of Lindley, and on the northern boundaries of the Hundreds of Lindley and Schomburgk:

The District Council of Burra, that portion of the said fence on the eastern boundary of the Hundred of King:

The

Morgan to Nackara Dog-proof Fencing Act.—1891.

The District Council of Mount Bryan, that portion of the said fence on the eastern boundary of the Hundred of Rees :

The District Council of Hallett, that portion of the said fence on the eastern boundary of the Hundred of Tomkinson :

The District Council of Terowie, that portion of the said fence on the eastern boundary of the Hundred of Ketchowla :

The District Council of Coglin, that portion of the said fence on the eastern boundaries of the hundreds of Hardy and Nackara, and portion of the eastern boundary of the Hundred of Paratoo :

The District Council of Apoinga shall pay to the District Council of Morgan one-fourth of the moneys expended by the said District Council of Morgan in keeping such fence in repair ; and such amount shall be a debt due from the said District Council of Apoinga to the District Council of Morgan, and may be recovered with costs of action in any Court of competent jurisdiction.

District councils may declare rates to keep fence in repair.

7. Every district council charged with the duty of keeping any portion of the said fence in repair shall, from time to time, declare such rate on each acre of land within twenty miles on the east and west side of such portion of the said fence which any such council shall be charged with the duty of keeping in repair, and for that purpose shall have all the powers contained in "The District Councils Act, 1887," or any Act for the time being relating to district councils, of and in any way relating to the declaring and recovering of rates ; and should any land within twenty miles on the east or west side of the portion of the said fence which such district council shall be charged with the duty of keeping in repair be outside the boundaries of the district, such land shall, for the purposes of this Act, be deemed to be within the boundaries of the district.

The amount of any such rate shall be on a scale so that the owners of lands within the respective limits described in section 3 hereof, shall bear the cost of keeping the said fence in repair in proportions similar to those which they are, under the said section, liable to contribute towards the erection of the fence.

The District Council of Apoinga shall have the same power of declaring and recovering rates on lands within the boundaries of the District of Apoinga, and of the District of English, liable to contribute towards the cost of and about the erection of the said fence, as any district council charged with the duty of keeping any portion of the said fence in repair has with respect to lands within or for the purposes of this Act deemed to be within the boundaries of the district of any such last-mentioned district council.

All Crown lands within twenty miles on the east or west sides of the said fence shall be ratable property for the purposes of this section.

8. In

Morgan to Nackara Dog-proof Fencing Act.—1891.

8. In the event of any district council charged with the duty of keeping any portion of the said fence in repair failing to put such portion, or any part thereof, in repair within thirty days after notice to do so by the Commissioner, it shall be lawful for the Commissioner to repair such portion of the said fence; and the cost of repairing such portion of the fence shall be a debt due from the said district council to the Commissioner, and may be recovered by him, with costs of action, from the said district council in any Court of competent jurisdiction.

If district council neglect to repair fence, Commissioner to do so.

For the above purpose the Commissioner and all necessary servants and workmen shall have the same power of entry upon any lands within twenty miles on the east or west side of the said fence, and of temporarily occupying any portion of the said lands, and of cutting, felling, converting, and taking any timber or other trees growing thereon, as are hereinbefore given to any district council.

It shall be lawful for the Commissioner to deduct the amount of the said debt from any subsidy which may be payable to any such district council out of any moneys voted by Parliament for the purpose of providing subsidies to district councils.

9. Wherever the said fence shall cross any road the Commissioner shall erect a swing-gate or gates, which when open shall leave a clear space of at least twelve feet.

Gates to be erected where fence crosses roads.

10. Whenever the said fence shall intersect the land belonging to one owner, such owner may, with the consent of the Commissioner, or the district council upon whose boundary such fence shall abut, erect a gate, as provided in section 9 of this Act.

Gates may be erected in fence intersecting land of one owner.

11. Any person who shall wilfully leave any gate in the said fence open, or shall neglect to close any such gate after opening the same, shall be liable to a penalty of not exceeding Twenty Pounds.

Penalty for leaving gates open.

12. Any person who shall wilfully injure the said fence, or any gate therein, shall be liable to a penalty of Fifty Pounds, and to be imprisoned for any term not exceeding six months, and may be ordered to pay the damage done to such fence; and any person who shall negligently injure the said fence, or any gate therein, shall be liable to a penalty of not exceeding Twenty Pounds, and may be ordered to pay the damage done to such fence.

Penalties for wilfully and for negligently injuring fence.

13. All proceedings in respect of offences against this Act shall be heard and determined by a Special Magistrate or two or more Justices of the Peace, under the provisions of Ordinance No. 6 of 1850, Act No. 298 of 1883-4, and any Act that may be law in that behalf.

Proceedings in respect of appeals to be under Act No. 6 of 1850.

14. There shall be an appeal from any conviction by any Special Magistrate or Justices for any offence against this Act, or from any order dismissing any information or complaint, which appeal shall

Appeal.

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Morgan to Nackara Dog-proof Fencing Act.—1891.

be to the Local Court of Adelaide of Full Jurisdiction; and the proceedings on such appeal shall be conducted in manner provided for appeals to Local Courts by the said Act No. 6 of 1850, or any Act for the time being in force regulating such appeals; and the Local Court hearing such appeal 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.

Land already fenced
not liable.

15. No payment shall become due under this Act in regard to any area of land which before the passing of this Act has been completely surrounded, to the satisfaction of the Commissioner, with a dog and other vermin proof fence.

Short title.

16. This Act may be cited for all purposes as the “Morgan to Nackara Dog-proof Fencing Act, 1891.”

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

KINTORE, Governor.