



ANNO QUINQUAGESIMO SECUNDO ET QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1889.

No. 467.

An Act to provide for the Destruction of Sparrows.
[Assented to, December 6th, 1889.]

WHEREAS it is desirable to make provision for the destruction of sparrows—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: Preamble.

1. This Act may be cited for all purposes as “The Sparrow Destruction Act, 1889.” Short title.

2. The Governor may, by Proclamation in the *Government Gazette*, declare that any municipality constituted or having a council exercising local functions under “The Municipal Corporations Act, 1880,” or any district constituted or having a council exercising local functions under any District Councils Act, shall be a sparrow district for the purposes of this Act. Governor may proclaim sparrow districts.

3. The council of every municipality, and of every district so proclaimed a sparrow district, shall be the local authority for such district for carrying into effect the provisions of this Act, and shall, as regards all lands, including Crown lands, situate within the limits of their respective sparrow districts, be charged with the duty and have authority to suppress and destroy sparrows thereon, and to prevent them breeding and increasing, and for that purpose to take all such measures and do and perform all and every such acts and things as may be proper or necessary. Duties and powers of local authority.

4. Every local authority shall in all things carry out, conform to, and abide by all such directions (if any) as shall from time to time be Local authorities to be under control of Commissioner.

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be given by the Commissioner of Crown Lands and Immigration for carrying out the provisions of this Act; and if any local authority shall make default in so doing, the Commissioner may cause such directions to be carried out, and may exercise any power which the local authority might have exercised; and the expense of carrying out such directions and exercising such power shall be a debt from the local authority to the Commissioner, payable on demand. Any certificate under the hand of the Commissioner that a certain sum of money is due to him from any local authority, under this section of this Act, shall be received in all Courts as *primâ facie* evidence that the sum therein named is due and payable from such local authority to the Commissioner.

Local authority may appoint officers.

5. Every local authority may from time to time appoint inspectors and officers within their district for carrying into effect the provisions of this Act, and may from time to time remove every person so appointed.

Occupiers to destroy sparrows.

6. Any inspector may cause a notice to be served requiring any occupier of land in any sparrow district, whether Government, public, or private property, and used for Government purposes or otherwise, and any owner of any unoccupied land in any sparrow district, within twenty-one days after service of such notice, to destroy all sparrows' eggs, and do anything reasonably necessary and required by such notice for preventing sparrows building or increasing thereon.

Right of entry to inspector after notice.

7. Every inspector, having given at least forty-eight hours' previous written notice of his intention so to do, may, from time to time, between the hours of seven o'clock in the morning and six o'clock in the evening, enter and remain for such time between such hours as may be reasonably necessary upon any land or building, whether Government, public, or private property, and used for Government purposes or otherwise, for the purpose of searching for and ascertaining if sparrows, sparrows' eggs, or sparrows' nests are thereon.

In default, inspector may destroy sparrows.

8. If default shall be made in compliance with the requirements of any notice served pursuant to section 6, any inspector or officer, having given forty-eight hours' previous written notice of his intention so to do, may, at any time, not being earlier than sunrise or later than one hour after sunset, enter and remain for such time, not being earlier or later than as aforesaid, as may be reasonably necessary upon any land and buildings within his district, and search for and destroy all sparrows and sparrows' eggs thereon, and do anything reasonably necessary for preventing sparrows from breeding or increasing thereon; and the cost thereby occasioned to the local authority shall be a debt from the defaulting owner or occupier, payable on demand to the local authority, and a certificate under the hand of an inspector shall be *primâ facie* evidence of the debt and its amount.

Inspector not liable for trespass or damage.

9. No inspector or officer acting in pursuance of this Act shall be deemed a trespasser, or liable for any damage occasioned in or about

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about the exercise of his powers necessary under this Act, unless such damage shall be occasioned by his wilful act or negligence; and in such case the local authority shall also be liable to make good the damage: Provided that every such inspector or officer shall, upon being required so to do by the owner or occupier of the land or buildings entered upon, exhibit his authority, or in default shall be liable to be dealt with as a trespasser.

10. Every local authority may at any time, and from time to time, without the consent of the ratepayers, in addition to the rates which they are authorised to declare under "The Municipal Corporations Act, 1880," or "The District Councils Act, 1887," or any other Acts for the time being in force relating to Municipal Corporations or District Councils, declare and cause to be collected such other rate or rates not exceeding Twopence in the Pound, or, with the consent of the ratepayers, not exceeding Sixpence in the Pound in any one year as they shall deem proper for effectually carrying out the provisions of this Act. The rates so declared may be recovered, and payment thereof may be enforced, in the same manner and against the same persons in all respects as if such rates were authorised by the above-mentioned Acts or any of them.

Local authority may levy rates.

11. The powers of making by-laws conferred upon any local authority by any Act for the time being in force relating to Municipal Corporations, or District Councils, shall extend to the making of by-laws for the suppression and destruction of sparrows, and for preventing them breeding and increasing; and any such by-law may provide for the enforcement thereof by a penalty not exceeding Two Pounds to be recovered in a summary way.

Extension of power of making by-laws.

12. Any person who shall falsely represent himself to be an inspector or officer under this Act, or in any manner whatsoever personate an officer under this Act, shall, on conviction, for every such offence be liable to forfeit and pay a penalty not exceeding Twenty Pounds, or to be imprisoned, with or without hard labor, for any period not exceeding three months.

Penalty for personating officers.

13. Any person who shall wilfully obstruct or hinder any inspector or officer under this Act in the exercise of any power or authority vested in any such officer by this Act, or who shall assault any such officer whilst in the exercise of his powers under this Act shall, on conviction, for every such offence be liable to forfeit and pay a penalty not exceeding Five Pounds, or to be imprisoned, with or without hard labor, for any period not exceeding one month: Provided that no proceeding for the recovery of any such penalty for assault, nor the payment of any fine inflicted, nor the suffering of any imprisonment for such offence, shall be a bar to any civil action by any such officer for or in respect of the same assault, unless the Justices issue a certificate to the contrary, under sections 55 and 56 of the "Criminal Law Consolidation Act, 1876."

Penalty for obstructing officers under this Act.

14. Any person who shall wilfully let loose any sparrows, or knowingly and wilfully permit any sparrows to be let loose, in any part

Sparrows not to be let loose.

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part of the province, shall, on conviction, for every such offence be liable to forfeit and pay a penalty not exceeding Ten Pounds, or to be imprisoned, with or without hard labor, for any period not exceeding three months.

Evidence of appointment of officers and of proclamation of districts.

15. The production of the appointment of any inspector or officer under this Act purporting to be signed by the mayor of any corporation, or the chairman of any district council, shall be *prima facie* evidence that such person is an officer under this Act for the sparrow district named in such appointment; and the production of the *Government Gazette* containing any proclamation of a sparrow district shall be conclusive evidence of such district being duly constituted.

Service of notice.

16. Service of any notice required by section 6 of this Act must be personal, and service of any notice required by section 7 of this Act may be effected either personally or by leaving the same at the residence of the occupier, or, if there be no residence, then on some conspicuous part of the land to which the same relates.

Residences not to be entered.

17. This Act shall not authorise any person to enter into the interior of any part of any building used for residential purposes.

Use of poison.

18. The use of poison for the destruction of sparrows may be authorised by any local authority, subject to regulations for the prevention of accident.

Payment for birds and eggs.

19. In every sparrow district payment may be made by the local authority for sparrows and sparrows' eggs collected and destroyed within such district, and produced to an officer appointed by such authority.

Penalties may be recovered in a summary manner.

20. Every proceeding in respect of any offence against this Act may be had before any Special Magistrate, or two or more Justices of the Peace for the said province, in a summary way, by or in the name of any officer under this Act.

Application of No. 6 of 1850.

21. 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 relating to the duties of Justices of the Peace with respect to summary convictions and orders.

Appeal to Local Court from order made by Justices.

22. 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 where the conviction or order appealed from was made; and the proceedings on such appeal shall be

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be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts.

23. It shall be lawful for the Local Court, 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 may 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 the Local Court stating the special case, 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.

Local Court may state case for opinion of Supreme Court.

24. All actions against any officer, or other person acting in the execution of this Act, for anything done in pursuance of this Act shall be commenced within one month 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 fourteen days 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 discontinued, or the defendant shall otherwise recover judgment, he shall recover full costs as between attorney and client upon such judgment.

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

25. All fines imposed for any offence against this Act, or any by-law to be made thereunder, shall be receivable by the local authority of the district in which such offence shall have been committed.

Fines.

26. This Act shall not apply to any sparrow other than that known as the common house sparrow (*passer domesticus*).

Interpretation.

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

KINTORE, Governor.