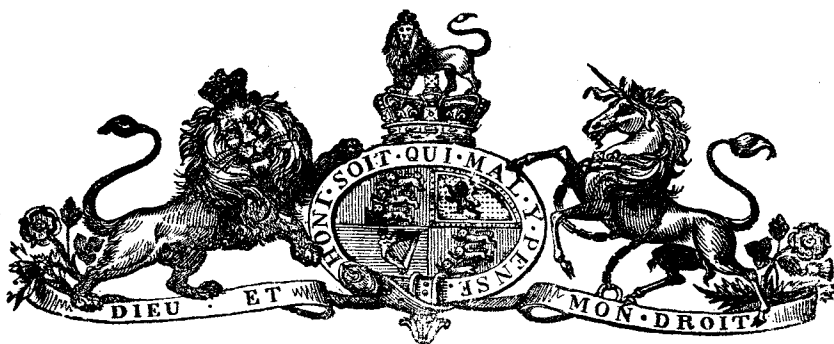


T A S M A N I A.



1878.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 2.



AN ACT to prevent the Spread of the *Californian* Thistle. [10 September, 1878.] A.D. 1878.

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act shall commence and take effect on the First day of *November*, One thousand eight hundred and seventy-eight. Commencement of Act.

2 This Act may be cited as “The *Californian* Thistle Act, 1878.” Short Title.

3 In the construction of this Act— Interpretation.

“Thistle” means the plant known by the botanical name of *Oniscus arvensis*, and commonly called or known as “The *Californian* Thistle.”

4 If any occupier of land within *Tasmania* upon which land thistles shall be growing at any time, shall not effectually cut down all such thistles then growing and being upon such land so as to prevent the same from coming into blossom or blossoming, every such occupier being convicted thereof shall be liable to a penalty of not less than Two Pounds and not exceeding Twenty Pounds: Provided that no second Penalty for not destroying thistles.

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information against such occupier shall be laid within Thirty days after any previous conviction.

Owner of un-occupied land to be deemed the occupier.

**5** Where any land shall be unoccupied then the owner of such land shall, for the purposes of this Act, be deemed to be the occupier thereof, and all the provisions of this Act shall be applicable to such owner in the same manner in all respects as if such owner were the actual occupier of such land.

Persons authorised may enter upon lands to search for thistles.

**6** It shall be lawful for any person authorised in writing in that behalf by any Justice, to enter upon any land, whether enclosed or not, at any reasonable hour in the day time, upon giving to the occupier of such land two clear days' notice of his intention so to do, for the purpose of ascertaining if any thistles are growing 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 any Inspector appointed as hereinafter provided may enter upon any land for the purposes of this Section without giving any such notice as aforesaid.

Justices to act upon complaint duly made.

**7** Upon complaint duly made to any Justice that any thistles are growing upon any land, such Justice upon being satisfied that thistles are growing upon such land, shall make an order for cutting down such thistles within such reasonable time after the service of the order not exceeding Fourteen days, to be named in such order as such Justice shall think fit ; and if within the time limited by such order such thistles shall not be cut down so as to prevent the same from coming into blossom or blossoming, then it shall be lawful for any person named in such order to cut down or cause to be cut down such thistles ; and the expenses incurred by such person shall be recoverable from the occupier of such land as hereinafter provided.

Appointment of an Inspector to enforce this Act.

**8** Upon the receipt by the Governor from time to time or at any time after the commencement of this Act, of a petition signed by not less than Five persons who are owners or occupiers of land in any Road District or Rural Municipality respectively, praying that some person may be appointed to enforce in such District or Municipality the provisions of this Act, it shall be lawful for the Governor in Council by notice in the *Gazette* to require the Trustees of such Road District, or the Municipal Council of such Municipality, as the case may be, to appoint some person, to be called an "Inspector" under this Act, to enforce in such District or Municipality the provisions of this Act, and thereupon such Trustees or Municipal Council shall, within Fourteen days after the publication of such notice in the *Gazette*, appoint an Inspector accordingly, and every such appointment shall be forthwith notified in the *Gazette* ; and if after the expiration of such period of Fourteen days an Inspector shall not be appointed or his appointment shall not be notified as aforesaid, it shall be lawful for the Governor in Council in lieu of such Trustees or Municipal Council, as the case may be, to appoint an Inspector.

For the purposes of this Section the expression " Road District " shall mean only a Road District which is not wholly or in part comprised within one or more Rural Municipalities.

Appointment of Inspector not to prevent persons enforcing Act.

**9** The appointment of an Inspector under the last preceding Section of this Act shall not be held to abridge the powers conferred on any person by this Act.

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**10** Every person appointed an Inspector by such Trustees or Municipal Council under this Act shall receive such remuneration for his services out of the funds at the disposal of such Trustees, or out of the Municipal Fund of such Municipality, as such Trustees or Municipal Council respectively shall see fit; and every person appointed an Inspector by the Governor in Council under this Act shall receive such remuneration out of the Consolidated Revenue Fund as the Governor in Council sees fit; and all moneys paid by the Colonial Treasurer out of the said Fund shall be deducted by him out of any moneys then payable, or thereafter to become payable, to such Trustees or Municipal Council respectively out of the Consolidated Revenue Fund, or out of moneys provided by Parliament for that purpose, as the case may be.

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Remuneration to Inspectors.

**11** When any thistles shall be growing upon any unoccupied waste lands of the Crown, the Minister of Lands and Works shall cause such thistles to be cut down; and the cost of cutting down the said thistles shall be defrayed out of the Consolidated Revenue Fund.

Thistles growing upon Crown lands to be cut down.

**12** The trustees of every Road District shall cause to be cut down all thistles which may be growing upon any roads in such Road District; and in all towns and districts where the streets and roads are under the control of a Municipal Council, such Council shall cause to be cut down all thistles which may be growing upon any such streets or roads; and if such trustees or Municipal Council shall not cause to be cut down the thistles as aforesaid, then any person may cut down or cause the same to be cut down; and the expenses incurred by such person shall be payable and paid by the treasurer of such trustees out of the funds at the disposal of such trustees, or by the treasurer of such Municipality out of the Municipal Fund, as the case may be, and shall be recoverable as hereinafter provided.

As to cutting down thistles on roads.

**13** Where the owner of any land is under this Act liable to pay the expenses of cutting down thistles on such land, and such owner is unknown or cannot be found, then upon proof to the satisfaction of a Justice that such owner is unknown or cannot be found, the amount of such expense to be assessed by such Justice shall be defrayed out of the funds at the disposal of the trustees of the Road District in which such land is situated, or if such land is not situate in a Road District, then out of the Municipal Fund of the Municipality which such land is situate, and if such land is not situated in a Road District or a Municipality, then out of the Consolidated Revenue Fund.

Where owner of land unknown how expenses to be defrayed.

**14** Every person shall be entitled to recover from such occupier, trustees, or Municipal Council all expenses lawfully incurred by him under this Act (such expenses to be assessed and allowed by two or more Justices), together with costs by action or plaint in any Court of competent jurisdiction, or by proceedings in a summary manner as if such amount had been a pecuniary penalty awarded by two Justices.

Recovery of expenses.

**15** In any proceeding under this Act to recover the expenses of and attending the cutting down any thistles it shall be sufficient to produce the allowance of such expenses purporting to be signed by two or more Justices, and such allowance shall be the *prima facie* evidence that the expenses so allowed were actually incurred in such cutting down, and that the same was duly authorised, and that such notice was given and proceedings taken as herein required.

In proceedings to recover expenses, production of allowance by Justices sufficient.

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Appropriation of penalties.

**16** One moiety of all penalties imposed or made payable by this Act shall, when recovered, be paid to the informant, and the other moiety shall be paid to the treasurer of the trustees of the Road District in which the offence was committed, and shall form part of the moneys at the disposal of the trustees; or if such offence was committed in a Municipality and not in a Road District, then such moiety shall be paid to the Treasurer of the Municipality and form part of the Municipal Fund; and if such offence was not committed in a Road District or a Municipality, then such moiety shall be paid to the Colonial Treasurer and form part of the Consolidated Revenue Fund.

Recovery of penalties.

**17** All penalties imposed or made payable by this Act shall be recovered in the mode prescribed by *The Magistrates Summary Procedure Act*.

Repeal.

**18** The Acts set forth in the Schedule are hereby repealed; but such repeal shall not affect any offence committed or any proceedings for the punishment of any such offence commenced before the commencement of this Act.

## SCHEDULE.

## ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
34 Vict. No. 5.	"The <i>Californian Thistle Prevention Act</i> ."
35 Vict. No. 15.	"An Act to extend the operation of 'The <i>Californian Thistle Prevention Act</i> .'"