



1853.

No. 9.

*An Act to regulate the occupation of Crown Lands in South Australia.*

[Assented to, December 9, 1853.]

**W**HEREAS it is expedient to amend the laws regulating the occupation of Crown Lands in South Australia—Be it therefore Enacted, by the Governor of South Australia, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1. From and after the passing hereof, the Ordinance passed on the seventeenth day of November, one thousand eight hundred and forty-eight, "To regulate the occupation of Crown Lands in South Australia," shall be, and the same is, hereby repealed, except in so far as regards all things heretofore lawfully done in pursuance thereof; and except in so far as any former laws are thereby repealed. No. 10 of 1848 repealed.

2. It shall be lawful for Her Majesty, or for the Governor, subject to the approbation of Her Majesty, from time to time to appoint, during Her Majesty's pleasure, with reasonable and proper salaries, fit and proper persons, being Justices of the Peace, to be Commissioners of Crown Lands, to execute this Act throughout the Province, or such districts thereof as may be assigned to them respectively by the Governor. Commissioners of Crown Lands.

3. It shall be lawful for every such Commissioner, and he is hereby authorized and empowered to give any notice, make any claim or demand, and make, or depute, or authorize any person to make any entry, which shall be requisite or expedient to be given or made, by or on behalf of Her Majesty, Her Heirs, or Successors; and every such notice, claim or demand, which shall be given or made in writing under the hand of any such Commissioner, and every entry which shall be made by any such Commissioner or any person Commissioners empowered to give notices, make claims, and authorize entries, &c.

person so deputed or authorized to make the same, as aforesaid, shall be good, valid, and effectual, to all intents and purposes whatsoever, and shall have such and the like force and effect to all intents and purposes as if the same were respectively given or made by Her Majesty, Her Heirs, or Successors.

Commissioners empowered to distrain for rent.

4. It shall be lawful for every such Commissioner, by virtue of his appointment alone, by himself or any person whom he shall for that purpose depute, to make distress for any rent which shall be due, in arrear, or unpaid, from any lessee, assignee, occupier, or tenant of any Crown Lands; and the goods, chattels, and effects so distrained, to impound, sell, and dispose of as in ordinary cases of rent in arrear.

Power to impound cattle trespassing.

5. If any cattle shall be found unlawfully trespassing upon any Crown Lands, it shall be lawful for any Commissioner, or for any person authorized by the Governor or any Commissioner in that behalf, either generally or in the particular case, to impound the cattle so trespassing, to be dealt with according to law.

Penalties for injuring or removing timber on Crown Lands, without licence.

6. Any person who shall injure, fell, or destroy any tree or sapling growing on Crown Lands, or shall cut, saw, remove, or sell any timber lying or being on Crown Lands, without a valid licence, or other lawful authority in that behalf; and any person who shall unlawfully remove and take away, or sever, excavate, quarry, or dig for, with intent to remove and take away, any metal, or ore containing metal, or any stone, sand, gravel, or other material from any Crown Lands, without a valid licence, or other lawful authority in that behalf, shall, on conviction, forfeit and pay a penalty not exceeding Five Pounds, including costs, or be imprisoned with hard labour for any period not exceeding two calendar months for each such offence; and it shall be lawful for any such Commissioner, or any person authorized by him, or for any police constable, to apprehend any person found committing any offence against this clause, and forthwith to take such person before any neighboring Justice of the Peace, to be dealt with according to law.

Unlawful removal of metals, stone, &c., from Crown Lands.

Injuring or removing land marks.

7. Whosoever shall wilfully deface, injure, destroy, or remove any survey-picket or other land-mark, placed, erected, or being on Crown Lands, without the leave of the Surveyor-General, or some person authorized to grant such leave, shall, on conviction, for every such offence, forfeit and pay a penalty of Ten Pounds.

Obstruction of roads and ways reserved by the Crown.

8. Whosoever shall, by casting or placing timber, stones, rubbish, or materials, or by any other means, wilfully stop, obstruct, or injure, any public or reserved road or way, vested in Her Majesty, and not being a main road, nor within the limits of any District Council, so as to prevent, hinder, or interrupt the free passage of any carriage, or of Her Majesty's subjects, on any such road or way, shall, on conviction, for every such offence, forfeit and pay a penalty of not less than Two Pounds nor more than Ten Pounds, over and above the expense of removal; and it shall be lawful for any Commissioner of

of Crown Lands, or any person whom he may in that behalf appoint, by writing under his hand, without any warrant, forthwith summarily to remove and prevent every such obstruction, at the cost of the party causing the same, to be recovered summarily as hereinafter provided.

9. Whosoever shall depasture cattle on the Waste Lands of the Crown, within any Hundred, or part of a Hundred, without having obtained a valid licence or other lawful authority in that behalf, or shall depasture on such Waste Lands a greater number of cattle than shall be authorized by such licence or authority, shall forfeit and pay, on conviction, for every such offence a penalty not exceeding Ten Pounds: Provided that such last-mentioned penalty shall not be payable in respect of any offence made punishable by the by-laws of any District Council.

Penalty on depasturing on the Waste Lands of the Crown.

10. Whosoever shall forge, counterfeit, or alter, or shall utter, or make use of, knowing the same to be forged, counterfeited or altered, any lease, licence, or other document purporting to be a lease or licence, or any authority from Her Majesty, or the Governor, or any person acting on behalf of Her Majesty, to occupy any Crown Lands in the said Province, or any document authorized by this Act, shall be guilty of a misdemeanor; and being convicted thereof, shall be liable to be imprisoned, with hard labour, for any term not exceeding two years, at the discretion of the Court.

Forgery and uttering of licences a misdemeanor.

11. All proceedings under this Act may be had and taken, and all penalties, fines, forfeitures, and sums of money incurred or imposed, or payable, under this Act, may be sued for and recovered at the suit of any Commissioner of Crown Lands, or such other officer as the Governor from time to time may in that behalf appoint; and all such proceedings in respect of matters arising within the limits of any District Council, which such District Council shall have authority to regulate by any by-law, may be had and taken and the penalties sued for and recovered by the Chairman of such District Council in a summary way, before any two or more Justices of the Peace for the said Province, other than such Commissioners or Chairman, in cases where any such Commissioner or Chairman shall be a party to the proceeding.

Recovery of penalties.

12. In any action, suit, or proceeding under this Act, the averment that any lands are Crown Lands, or Waste Lands of the Crown, shall be sufficient without proof of such fact, unless the defendant prove the contrary; and if any question shall arise whether the defendant was authorized to do the act complained of, the proof thereof shall lie on such defendant; and all licences, certificates, maps, plans, and office copies certified as true under the hand of the Surveyor-General of the Province, or of the proper officer of his department, or of any Commissioner of Crown Lands, shall, in all matters relating to the said respective offices, be sufficient evidence without

*Onus probandi.*

without production of original records, and without the personal attendance of such officers, or proof of their signatures.

Governor may order costs of suits to be paid from Treasury.

13. It shall and may be lawful for the Governor to pay or cause to be paid out of the public Treasury of the Province, the costs or charges of any suit or action which shall or may be brought by or against any Commissioner, Justice of the Peace, Constable, or other person acting under the authority and in the execution of this Act.

Protection of persons acting in execution of this Act.

14. And for the protection of persons acting in execution of this Act—be it Enacted, That all actions for anything done under this Act shall be commenced within six calendar months after the cause of action shall have arisen and not afterwards; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in every such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, together with the costs incurred up to that time.

Construction clause.

15. And be it Enacted, That in construing this Act, the word "cattle" shall be construed to mean horned cattle, horses, camels, mules, asses, sheep, goats, and swine, male and female, with weaned offspring; and the words "Waste Lands of the Crown" shall be construed to mean the same as in the Act of Parliament, passed in the Session of the fifth and sixth years of Her present Majesty, "For Regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies;" and the words "Crown Lands" shall be construed to mean any lands whatsoever vested in Her Majesty, Her Heirs, or Successors.