

Legislative Council.

33^o VICTORIÆ, 1869.

A BILL

To regulate the Impounding of Live Stock.

[MR. OWEN ;—7 October, 1869.]

WHEREAS it is expedient to make better provision for the Preamble.
Impounding of Live Stock Be it therefore enacted by the
Queen's Most Excellent Majesty by and with the advice and consent
of the Legislative Council and Legislative Assembly of New South
5 Wales in Parliament assembled and by the authority of the same as
follows :—

I.—REPEAL OF EXISTING ACT.

1. The Act twenty-ninth Victoria number two is hereby repealed Repeal of existing Act.
But nothing herein shall be deemed to affect any act or thing lawfully Proviso.
10 done or commenced or any regulation made or any bond entered into
or given under the said repealed Act before the coming into operation
of this Act and all Pounds existing and Poundkeepers in office at the
commencement of this Act shall be deemed to all intents and purposes
to have been respectively established and appointed under this Act
15 and shall be subject to the provisions hereof and all offences committed
and causes of action and complaint which shall have accrued in
violation of any of the provisions of the said repealed Act and all fines
and penalties incurred under the same before the coming into operation
of this Act shall be prosecuted and enforced respectively as if this Act
20 had not been passed.

II.—INTERPRETATION.

Definition of certain terms.

2. For the purposes of this Act the following terms in inverted commas shall unless the context otherwise indicate bear the meanings set against them respectively—

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| Animals. | “Animal”—Any one or more cattle horses sheep goats or swine as hereinafter defined 5 |
| Cattle. | “Cattle”—Any one or more bulls cows oxen heifers steers or calves |
| Detainer. | “Detainer”—The written detainer or memorandum handed over by the impounder to the Poundkeeper with any animal impounded containing the particulars required by the First Schedule hereto 10 |
| District. | “District”—The Police District in which any Pound is situated |
| Enclosed land. | “Enclosed land”—Land enclosed by a sufficient fence as hereinafter defined 15 |
| | “Entire”—Any entire horse rig bull or stag above the age of one year and any ram above the age of six months |
| Goat. | “Goat”—Any one or more goats kids or alpacas |
| The Governor. | “The Governor”—The Governor with the advice of the Executive Council 20 |
| Grass charge. | “Grass charge”—The charge payable by the owner of travelling stock travelling without a Travelling Permit to the occupant of Crown Lands situated within half a mile of the centre of any road over or along which such travelling stock are travelling 25 |
| Horse. | “Horse”—Any horse mare gelding colt filly ass mule or foal |
| Impounder. | “Impounder”—Any person by whom or by whose instructions any animal is impounded or seized for the purpose of being impounded 30 |
| Impounder's charges. | “Impounder's charges”—Any damages for trespass mileage for driving tolls ferry-dues or other moneys payable to an impounder under the provisions of this Act |
| Inspector. | “Inspector”—Any Inspector of Pounds appointed under this Act 35 |
| Justice. | “Justice”—Any Justice of the Peace |
| Land. | “Land”—Any land station run farm paddock yard premises or other place |
| Mileage. | “Mileage”—The charge fixed by the Fourth Schedule for taking any animal intended to be impounded to a yard or pound 40 |

“Nearest”—

- “Nearest”—Nearest by a practicable road Nearest.
- “Neighbour”—Any occupant or owner a portion of whose Neighbour.
land is situated within one mile of some other occupant
or owner’s land
- 5 “Net proceeds.”—The proceeds or residue remaining of the Net proceeds.
proceeds of any pound sale after deduction of the authorized
impounder’s charges and pound charges and expenses due
in respect of such sale by virtue of this Act
- 10 “Occupant”—Any holder or occupier of land whether jointly Occupant.
or in severalty under any lease license or other title of any
kind whatever or any superintendent overseer or other
person acting for or on behalf of any occupant
- 15 “Owner”—Any owner or proprietor of an animal whether Owner.
jointly or in severalty or any agent or overseer of any owner
or any person in the possession or charge of any animal
- “Pound”—Any Pound established by virtue of this Act Pound.
- “Pound charges”—Any pound fees sustenance charges pound Pound charges and
expenses.
charges and cost of advertising any animal under this Act
- 20 “Poundkeeper”—Any person having the charge of any Pound Poundkeeper.
whether temporarily or not
- “Pound reserve”—Any land proclaimed in the *Gazette* as Pound reserve.
that on which animals impounded at any Pound may be
depastured
- 25 “Road”—Any road or part of a road proclaimed as such by Road.
the Governor by notice in the *Gazette* or opened or con-
firmed under any Act now or hereinafter in force
- “Schedule”—A Schedule annexed to this Act Schedule.
- “Sheep”—Any one or more rams ewes wethers or lambs Sheep.
- 30 “Sufficient fence”—Such a fence or other means of enclosure Sufficient fence.
natural or artificial as the Petty Sessions shall deem to be
sufficient to prevent trespass by any horse cattle or sheep
- “Swine”—Any boars sows or pigs
- 35 “Track”—Any track authorized or declared by the Governor
by notice in the *Gazette* as a track used or required for
travelling stock under the nineteenth section of the Crown
Lands Occupation Act of 1861
- 40 “Travelling stock”—Any one or more horses cattle or sheep Travelling stock.
while being driven or carried or taken to any place what-
soever other than the land on which they are usually kept
or depastured

“Travelling

Travelling permit.

“Travelling permit”—Any permit granted under this Act to drive carry or take any travelling stock over or through land other than that on which they are usually kept or depastured.

III.—ESTABLISHMENT OF POUNDS AND POUND RESERVES. 5

Establishment and abolition of Pounds and Pound Reserves.

3. The Governor may on the recommendation of any Petty Sessions in any district by notice in the *Gazette* fix upon and determine convenient places and lands in such district for establishing Pounds and Pound Reserves for depasturing impounded animals And may on the like recommendation and by like notice abolish such or 10 any other Pounds or Pound Reserves or any of them and may advance any sum not exceeding *twenty pounds* from the Consolidated Revenue for the purchase or removal of any Pound or the erection of any new Pound provided the same is to be erected on Crown Lands.

Cost of erection.

Proper Pound yards to be erected.

4. Every Pound established as aforesaid shall be properly 15 fenced and enclosed and provided with necessary yards and pens for drafting and examining the brands of animals impounded and shall also be adapted as far as may be for keeping infected or diseased animals separate and apart from those that are healthy.

IV.—APPOINTMENT OF INSPECTORS OF POUNDS AND POUNDKEEPERS. 20

Appointment of Inspectors of Pounds.

5. The Chief Inspector of Sheep for the time being shall be *ex officio* Chief Inspector of Pounds and every other Inspector of Sheep shall be an Inspector of Pounds And the Governor may appoint such other persons to be Inspectors of Pounds as may from time to time be necessary to carry out the provisions of this Act And every Inspector 25 of Pounds shall subject to the provisions hereof have the control and direction of such Pounds and Poundkeepers as may from time to time by notice in the *Gazette* be committed to his charge and of such other Pounds and Poundkeepers in the same or any other district as may from time to time be put under his control and direction by such Chief 30 Inspector.

Power of entry to Inspectors.

6. Any Inspector may enter at any time upon any land in order to inspect any animal impounded thereon or detained there for the purpose of being impounded And any person refusing to allow an Inspector

Inspector to enter upon any land for such purpose or hindering or impeding him in the execution of such duty shall for every such offence incur a penalty not exceeding *twenty pounds*.

7. Upon the establishment of any Pound under this Act a Appointment of Poundkeepers. majority of the Justices specially assembled for that purpose in the Petty Sessions which recommended the establishment of such Pound shall nominate a fit and proper person as the Poundkeeper thereof and if the Governor approve of such nomination such person shall be appointed accordingly. And any vacancy caused by the removal, dismissal, death or resignation of such Poundkeeper shall be filled in like manner. Provided that until such vacancy shall be so filled up and during his absence on leave such Petty Sessions whether specially assembled for that purpose or not may appoint a person to act temporarily in the place of such Poundkeeper.

8. Every Poundkeeper before acting as such shall enter into a bond to Her Majesty with two sufficient sureties in such amount and conditioned in such a manner as the Petty Sessions sitting nearest to and in the same district as the Pound to which he shall have been appointed to act shall consider necessary for the faithful performance of the duties of his office for accounting for and paying over all moneys received by him in such capacity under this Act for the repayment to the owners of impounded animals of all fees charges or expenses exacted by him contrary to the provisions of this Act for any loss or damage such owners may sustain by the wilful act or neglect of himself or his servants and for the due payment to any impounder of all fees and charges received by him on account of such impounder. Security to be given by Poundkeeper. Sureties to be also responsible to owners.

9. The Court of Petty Sessions sitting nearest to and in the same district as a Pound or the Chief Inspector may suspend the Poundkeeper thereof if he has been guilty of any neglect or offence against the provisions of this Act. Suspension of Poundkeeper.

V.—RULES OF IMPOUNDING.

10. Any occupant of land may seize any animal trespassing on such land and may drive or otherwise take such animal to and impound the same in the Pound nearest to the land where such animal was so trespassing but if the owner of such animal be known to such impounder and the land where such trespass was committed Animals trespassing may be seized and impounded in nearest Pound. be

Proviso as to equidistant pounds.

Occupant in certain cases to detain neighbour's stock and send notice before impounding them.

Detainer to be lodged with stock impounded.

Animals may be taken near to owner's residence and charges claimed.

If charges are not paid they may be recovered.

Appeal by owner.

be equidistant or nearly so from *two or more* Pounds then such animal shall be driven to the Pound nearest to the residence of the owner of such animal Provided always that no animal shall be impounded between sunset and sunrise And *provided* further that every occupant who shall seize any horse cattle or sheep which he knows 5 or has reason to believe belongs to any neighbour if he intends to impound the same and the nearest Pound shall be more than *five miles* from the place where the same were trespassing when seized shall first place such horse cattle or sheep in some stock-yard or enclosure on or near the land on which they were trespassing when so 10 seized and shall within the time fixed by the Second Schedule counting from the time of such seizure give his said neighbour notice of such intention And in order to afford the owner an opportunity of claiming the said horse cattle or sheep previously to the same being sent to Pound such occupant shall thereafter detain the same for the full 15 time also fixed by the said Second Schedule and the time between sunset and sunrise on the day of and every day following such seizure shall not be counted in estimating the time of such detention.

11. Every impounder before impounding any animal shall fill up and sign a Detainer in the form of the First Schedule and deliver the 20 same to the Poundkeeper of the Pound where he shall impound such animal And if such impounder shall not be the holder or occupier of the land where such animal was found trespassing he shall produce to such poundkeeper a written authority signed by such holder or occupier authorizing such impounder to impound animals found tres- 25 passing on his land.

12. An occupant instead of impounding any animal found trespassing on his land may drive or otherwise take the same to a convenient place near the residence of the owner thereof and may demand payment of damages for such trespass and of mileage for 30 driving the said animal from such land to such convenient place according to the rates fixed by this Act together with all tolls and ferry-dues incurred in such driving And if such owner shall not pay such demand upon request made in writing the said occupant may recover the same in the Petty Sessions sitting nearest to the land 35 where such stock were found trespassing with reasonable costs of suit Provided that the owner of the said animal if he considers the seizure of the same to be illegal or such demand excessive may pay the amount thereof under protest and appeal against such seizure or demand in the manner hereinafter provided in the case of disputed 40 impounding.

13. All stray or unclaimed horses or cattle coming into the possession of any member of the Police Force shall be impounded in the Pound nearest to the station at which the person so taking possession of such horses or cattle resides.

Stray horses to be sent to Pound by police.

5 14. Every animal which has been seized for the purpose of being impounded shall on demand be given up to the owner thereof when and wherever delivery can be conveniently taken on his tendering or paying to the impounder the amount claimed for trespass and notice (if given) as well as for mileage if any shall have been incurred according to the rates respectively fixed by this Act together with all 10 tolls and ferry-dues incurred in such driving Provided that if the owner of such animal considers the seizure thereof illegal or the impounder's charges excessive he may pay the same to the impounder under protest and appeal as hereinafter provided in the case of 15 disputed impounding.

Animals seized to be given up to owner when claimed and charges paid.

Owner may pay and appeal.

15. Any person duly authorized by a Justice of the Peace or by a Superintendent or Inspector of Police may for safe custody lodge any animal in and by the like authority remove the same from any Pound and in every such case the only charge which may be made 20 by the Poundkeeper of such Pound shall be the charge for sustaining such animal according to the scale of sustenance fixed for the same.

Animals may be lodged in pound for safe custody.

16. In every case in which lands enclosed by one common sufficient fence shall be held by more than one occupant such lands shall for the purposes of this Act be deemed as against all persons outside 25 such common fence to be enclosed lands but as against each other where no sufficient fences stand between the respective lands of such occupants the said lands shall for the purposes aforesaid be deemed to be unenclosed lands.

A common fence to be a sufficient one.

17. Every occupant or other person who shall illegally impound 30 or seize any animal for that purpose or who shall overdrive or otherwise through the wilful act or neglect of himself or his servants injure or lose any animal so seized or who shall while such animal is in his possession fail to provide sufficient food and water for it or any person who shall fail to comply with or offend against any of the 35 provisions of this Act with respect to the seizure or impounding of any animal shall for every such offence incur a penalty not exceeding *fifty pounds* Provided that such penal conviction for any such offence shall not prejudice the right of the owner of any such animal to recover by civil action the loss or damage he may have sustained 40 through any such illegal seizure or impounding.

Penalty for illegal impounding or breach of Act.

Penal conviction not to prejudice civil action.

VI.—TRAVELLING STOCK.

Tracks for Travelling
Stock.

18. The Governor may by public notice in the *Gazette* authorize or declare any track or line of direction upon Crown Lands to be a track used or required for travelling stock under the 19th section of the Crown Lands Occupation Act of 1861 and may in like 5 manner limit the operation of the said section in regard to any run or other Crown Lands held under lease or any part thereof to tracks so authorized or declared and any animal which shall after such notice be driven or travelled along any road or track other than a track so authorized or declared or a public road or main road under the Main 10 Roads Management Act over across or along any run or other Crown Lands specified in such notice without permission of the occupant or lessee of such run or other Crown Lands shall be liable to be impounded and the occupant or lessee of such run or other Crown Lands or other person by him duly authorized may seize and detain such 15 animal in any convenient place and for a reasonable time for the purpose of impounding the same and nothing herein shall affect any right of such occupant or lessee to compensation for any loss or damage caused by such animal.

Travelling Stock not more than *half* a mile from the road on Crown Lands may not be impounded.

19. Occupants of Crown Lands which are not separated by a 20 sufficient fence from any road passing along or through such lands may not impound any animal travelling along or over the said road unless such animal at the time of seizure shall be at a greater distance from the centre thereof than *half* a mile Provided however that unless prevented by rain or flood horses cattle and sheep shall 25 notwithstanding anything to the contrary contained in the Crown Lands Occupation Act of 1861 be moved on or along such road as follows—Horses at least *twelve* miles and cattle at least *eight* miles and sheep at least *six* miles in one direction within every successive period of *twenty-four* hours Provided however that travelling sheep 30 other than infected sheep which have been stopped by an Inspector may remain upon any such lands for any period not exceeding *forty-eight* hours.

Distance to be travelled daily.

Stoppage on lands by an Inspector.

Stock for which a permit is obtained may be travelled free of grass charge.

20. Every owner before any horse cattle or sheep which have been sold or which are intended to be offered for sale or before any 35 cattle or sheep which are intended to be slaughtered for food or for preserving or boiling down shall begin to travel may apply to a Justice of the Peace in the form of the Third Schedule for leave for the same to travel free of grass charge and upon such owner making a statutory declaration

declaration as to the several particulars required by the form of the said Third Schedule and the Schedule referred to therein the Justice of the Peace before whom such declaration shall be so declared and subscribed may grant a travelling permit for such horses cattle or sheep
 5 in the form of the Fourth Schedule and thereupon the same may travel free of grass charge by the route and to the destination specified in such permit Provided that the said route shall be an ordinary and direct one to such destination Provided also that no second or subsequent travelling permit shall be granted for any such horses cattle
 10 or sheep until a period of eight months shall have elapsed from the time the same should have reached the destination mentioned in the said first permit calculating from the date such horses cattle or sheep are therein stated to commence to travel and that they travelled at the rate respectively required by the last preceding section per day Pro-
 15 vided that if it shall appear to such Justice that such application for leave to travel such horses cattle or sheep is made in bad faith or upon insufficient grounds or that the statements contained in such application or any of them are or is untrue he may refuse to grant such travelling permit but such refusal shall not affect or prejudice the
 20 granting of such travelling permit by any other Justice.

The route to be an ordinary one. Subsequent permit not to be granted for eight months.

Justice may refuse permit.

21. A travelling permit shall be available only for the horses cattle and sheep and the route and time mentioned therein and such time shall not exceed the time which such horses cattle or sheep would fairly take to reach the destination mentioned in such permit
 25 reckoning such horses cattle and sheep to travel at the rate per day respectively required by section nineteen of this Act Provided however that the sale of such horses cattle or sheep during their journey shall not affect the validity of any such permit.

Time and route for which permit available.

22. The occupant of any land upon through or along which any travelling horses cattle or sheep shall be taken or driven may at any time require the owner thereof to produce the travelling permit
 30 for the same and if such permit shall not be produced on demand made or if on being produced it shall appear that the same is out of date or in any respect informal irregular or contrary to the require-
 35 ments of this Act or shall not correspond with the horses cattle or sheep mentioned therein or if the number thereof travelling under such permit shall be in excess of the number mentioned therein or if such horses cattle or sheep shall be travelling on a route or in a direction different to that set down in the permit so produced the
 40 same shall be held to be travelling without a permit and shall be

Occupant may demand permit and if not produced stock to be liable to grass charge.

liable to pay the grass charge mentioned in the next succeeding section hereof and shall also be subject to all the provisions of that section.

Owner of stock in certain cases to pay grass charge.

23. Every owner who shall travel or drive any number of horses exceeding twenty-five or any number of cattle exceeding fifty or any number of sheep exceeding two hundred and fifty over or along any Crown Lands without a travelling permit for the same shall pay the occupant of such lands on demand a grass charge at the rate of *five shillings per day* for every one hundred horses or *two shillings and sixpence per day* for every one hundred head of cattle or *five shillings per day* for every one thousand sheep for the time such horses cattle or sheep shall travel over or along the said lands and such owner shall satisfy the said occupant as to the correct number of such horses cattle or sheep or permit them to be counted by such occupant Provided also that wherever such road shall run between the lands of different occupants then one-half of such grass charge shall be paid to each of such occupants Provided further that if such owner does not pay such grass charge immediately upon demand made by or on behalf of such occupant such horses cattle or sheep may be seized and impounded by such occupant and the owner thereof shall in that case pay to such occupant damages as for a trespass committed by them at *one-half* the rate fixed by the Fifth Schedule for trespass on a grass paddock enclosed by a sufficient fence together with such grass charges and other impounder's charges and Pound charges and expenses as may accrue due and become payable on such horses cattle or sheep previously to their release And provided also that no grass charge shall be payable to any occupant in any case when the time such horses cattle or sheep shall travel over or along his lands shall be less time than *one day* nor for any horses cattle or sheep during the time they are camped nor for any horses cattle or sheep while they are being driven to Pound.

Half grass charge to be paid to adjoining occupant.

Stock may be counted.

Grass charge not to be payable for less than one hour nor on stock camped or driven to Pound.

In time of drought provisions relating to grass charge may be suspended.

24. Upon the representation of the Boards of Sheep Directors in any two or more adjoining Sheep Districts that a general drought prevails in such districts and that the horses cattle or sheep therein are suffering therefrom to such an extent as to render it necessary to travel them in search of grass and water the Governor may by proclamation in the *Gazette* modify or suspend during any period not exceeding six months in any year all or any of the provisions herein contained relating to travelling stock.

25. Occupants of unenclosed lands other than Crown Lands Lands other than Crown Lands near a road to be marked. situated within *half* a mile of the centre of any road may not impound any travelling stock which may trespass on such land unless there shall at the time of such trespass be a notice in legible letters not less than 5 two inches in length posted at each of the two corners of such land abutting on or nearest to the said road stating that the same are not Crown Lands and a distinct plough furrow drawn and maintained where practicable between such notices And where any of the Mode of marking. boundaries of such lands are so situated as aforesaid with respect to the 10 said road for a greater distance than *one quarter* of a mile then it shall not be lawful for the occupant thereof to impound any such stock trespassing as aforesaid unless a like notice shall be posted at the time of such trespass at every *quarter* of a mile along such boundaries and a distinct plough furrow drawn and maintained where practicable 15 between such notices.

VII.—IMPOUNDER'S CHARGES.

26. Any occupant who shall impound or seize any animal for Impounders may claim charges and expenses fixed by Schedule. that purpose may charge and receive for his own use the several rates of damages for trespass and of mileage fixed respectively by the Fifth 20 and Sixth Schedules as well as any fees due for sending notice of such impounding or seizure at the rates hereinafter allowed to Poundkeepers for such like notices together with tolls or ferry-dues duly incurred in such driving Provided that such mileage shall be Mileage chargeable for distance actually travelled. reckoned for the whole or for such portion only of the distance between 25 the place where the animal so driven was trespassing when seized and the Pound at which the same shall be or might have been impounded under this Act according as such animal is either released on its way to such Pound or shall be impounded therein.

27. In every case where any animal which has been previously Double damages for repeated trespass. 30 impounded for trespass on any land shall again be found trespassing on the same land within *twenty-one* days of the date of such preceding trespass then twice the rate fixed by the Fifth Schedule may be charged for such second and every subsequent trespass committed by the same animal within a like period together with such authorized 35 mileage and fees for notice and tolls and ferry-dues as shall have been incurred.

Owners of entire animals to pay extra damages for trespass.

Owner may be sued for deficiency in damages.

Appeal by owner allowed.

Penalty for impounder claiming unauthorized charges.

28. The owner of any entire which may be seized or impounded for trespass under the provisions of this Act shall pay to the impounder thereof any sum not exceeding *five pounds* by way of damages for such trespass in addition to the ordinary authorized damages and impounder's charges and if any such entire shall not realize when sold sufficient to pay such damages and impounder's charges over and above the Pound fees and expenses due thereon then the owner of the said entire shall be liable to the impounder thereof for the damages claimed by him and if such damages shall not be paid by such owner on demand being made by the impounder such impounder may recover the same in the Court of Petty Sessions sitting nearest to the residence of such impounder together with all costs incurred in the recovery of such damages Provided that the owner of such entire may if he consider such damages excessive pay the amount thereof under protest and proceed by appeal against the impounder as hereinafter provided in the case of disputed impounding.

29. Every impounder who shall knowingly demand or receive any impounder's or other charges not authorized by this Act or who shall fail to comply with or offend against any of the provisions of this Act relating to the charges payable hereunder to the impounder of any animal shall for every such offence incur a penalty not exceeding *twenty pounds*.

VIII.—POUND CHARGES AND EXPENSES.

Fees for services by Poundkeeper to be paid as per Schedule.

30. Every Poundkeeper shall be entitled to demand and receive Pound fees for the several descriptions of animals impounded in his Pound according to the rates fixed by the Seventh Schedule and he may also upon the performance by him of any of the several acts or duties mentioned in the Eighth Schedule demand and receive the fees therein respectively set opposite to such acts or duties over and above the authorized charges for the sustenance of any such animals and the actual amount paid by him for advertising them in the *Gazette* and local newspapers.

Justices to fix rates of sustenance fees.

31. The Petty Sessions sitting nearest to and in the same district as any Pound may meet from time to time by special notice and fix the charges to be allowed to the Poundkeeper thereof for the

the sustenance of the animals impounded at such Pound and the charges so fixed shall be notified in the *Gazette* Provided that such charges shall not be payable for any animal for the day on which it is impounded if such impounding take place later than *two* o'clock **5** in the afternoon nor for the day on which any animal is released if released before *nine* o'clock in the morning and that no such charges shall be payable on any animal for any day unless it shall have been depastured for more than *three* hours on such day.

Notification in *Gazette*.
When sustenance fees are not chargeable.

10 32. The Poundkeeper may apply to his own use all fees charges and expenses which he may receive in terms of the two next preceding sections hereof.

Charges to be applied by Poundkeeper to his own use.

15 33. Every Poundkeeper who shall knowingly demand or receive any Pound charges or expenses not authorized by this Act shall for every such offence incur a penalty not exceeding *twenty pounds* besides being liable to dismissal.

Penalty for poundkeeper making excessive charges.

IX.—POUNDKEEPER'S GENERAL DUTIES.

20 34. Every Poundkeeper shall among other things perform the following general acts and duties namely :—

General duties of poundkeeper—

- 25** (1.) He shall keep a copy of this Act and of all duly authorized Regulations and Instructions to Poundkeepers as also a Pound Book in the form of the Ninth Schedule and a Register Book in the form directed by the Chief Inspector as also the latest editions of the Brand Directory and of the Quarterly and other Lists of Registered Brands published in the *Gazette*.
- 30** (2.) He shall in a clear and legible hand make all entries required by this Act or by any instructions received by him under the proper heads and at the time the acts to which such entries refer were respectively done or as soon thereafter as possible but not after any dispute concerning any matter or thing requiring to be stated in any such entries shall have arisen.
- 35** (3.) He shall at all reasonable times when required produce this Act and all instructions and books relating to the duties of his office and also any animal then impounded at his Pound or in his charge to any Justice Inspector or policeman free of charge and to any other person on payment of the fee mentioned in the Eighth Schedule.

To keep Act and Pound and other Books and Lists—

Make entries at once and properly—

Produce Act books and animals when required—

(4.)

- Grant extracts— (4.) He shall when required on payment of the fees mentioned in the Eighth Schedule grant extracts from such Act regulations instructions or books.
- Reply to inquiries— (5.) He shall satisfy free of charge all reasonable inquiries which may be made of him personally respecting any animal and on payment of the fees mentioned in the Eighth Schedule shall promptly reply to any such inquiries if addressed to him by letter. 5
- Keep yard clean and in repair— (6.) He shall at his own cost keep his Pound yard clean and in good repair. 10
- Send notices by messenger or by post— (7.) He shall send the notices required by this Act either by messenger or by registered letter through the post as the persons to whom the said notices are addressed may direct in writing and failing such written directions he shall give such notice by messenger when the distance does not exceed twenty miles and beyond that distance by registered letter through the post. And he may demand and receive the fees respectively mentioned in the Eighth Schedule for sending such notices. Provided that one notice only shall be charged for any number of animals belonging to the same owner and impounded at the same time. 15 20
- Fees for notice—
- One fee for the whole lot—
- Maintain a legible pound board— (8.) He shall keep and maintain (except during such reasonable time as the same may be taken down for alteration or repair) on or near some conspicuous part of his Pound a board containing in legible black letters on a white ground a table of all impounder's charges and Pound charges and expenses chargeable at his Pound and his own Christian name and surname. 25
- Register stray stock when required— (9.) He shall keep a Register of Stray Stock and shall on payment of the fees mentioned in the Eighth Schedule for such registration enter in the said register the brands and marks and descriptions of all stock which the owners thereof may require him to register together with the names and addresses of such owners. 30
- Pay over charges to impounder— (10.) He shall immediately on the release or sale of any animal pay over to the impounder of such animal the impounder's charges received in respect thereof except in the case of disputed impounding when he shall pay such charges at the time and in the manner hereinafter provided. 35

(11.)

(11.) He shall on his resignation or dismissal from the office of Poundkeeper deliver over to his successor or to the Petty Sessions nearest to and in the same district as the Pound of which he shall have been such Poundkeeper or to any one whom such Petty Sessions may direct to receive them all Acts regulations instructions and books supplied to him as Poundkeeper and all papers and documents relating to the duties of such office.

Hand over books and papers on removal or dismissal.

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And if any Poundkeeper fail to comply with or offend against any of the provisions of this section or fail to carry out any lawful order of the Inspector or shall either by himself or his servants seize any animal for the purpose of impounding the same or cause any animal to be seized for that purpose except on land in his own occupation he shall for every such offence incur a penalty not exceeding *twenty* pounds besides being liable to dismissal.

Penalty for neglect.

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X.—POUNDKEEPER'S DUTIES WITH RESPECT TO ANIMALS IMPOUNDED.

35. Every Poundkeeper upon being required to impound any animal shall demand and obtain from the impounder a detainer in the form of the First Schedule and signed by such impounder And if such impounder shall not be the holder or occupier of the land where such animal was found trespassing he shall also require the impounder to produce to him a written authority signed by such holder or occupier authorizing such impounder to impound animals found trespassing on his land And if such impounder shall not deliver to such Poundkeeper such detainer or such detainer and authority as the case may require he may refuse to impound such animal but if having received such detainer or detainer and authority as the case may require he shall find the same to be correct and to agree with the stock to be impounded he shall receive such animal into his pound and give to the impounder a written acknowledgment for the same and thereupon do and perform the following several acts and duties in respect thereof:—

Poundkeepers to receive animals into pound and to perform among others the following duties—

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(1.) He shall subject to the provisions of this Act detain the said animal so impounded until the same is duly claimed and the authorized pound charges and expenses and impounder's charges due thereon are satisfied or paid or until the same is sold as hereinafter provided.

Animals to be kept till charges are paid or till sold.

(2.)

Keep diseased separate from other animals.

Diseased animals to be destroyed if not released—

Without compensation.

Take brands and descriptions—

And enter them in Poundbook.

Provide proper sustenance—

On reserve—

On other lands.

Animals to be depastured eight hours daily.

Post notices of impounding near the Pound—

(2.) He shall immediately examine such animal and ascertain whether or not the same is infected with any infectious or contagious disease and if so infected he shall keep such animal apart from others not so infected and shall give the owner or supposed owner of the animal which is so 5 infected and the Inspector for his Pound immediate notice of the impounding and infection of such animal And failing its release and removal by the owners thereof within *forty-eight* hours of the time of the delivery of such notice then the animal so infected shall be destroyed or 10 otherwise disposed of as the said Inspector may direct And no compensation shall be allowed to the owner of such animal on account of its destruction as herein directed.

(3.) He shall forthwith carefully take the descriptions brands and marks of such animal and make a correct entry 15 thereof in a rough scrollbook to be kept for that purpose And he shall as soon as possible thereafter from such scrollbook make the necessary entries in his Poundbook of the impounding thereof under the proper headings.

(4.) He shall immediately thereafter and during the whole time 20 such animal is impounded provide it with sufficient and wholesome food and water having regard to the capabilities of the district and the circumstances of the season And he may for that purpose send such animal for food and water to the reserve proclaimed for his Pound and where 25 there is no such reserve or where the food or water thereon is insufficient he may with the sanction of the Petty Sessions sitting nearest to and in the same district as his Pound depasture such animal on other lands Provided that the animal so impounded when depastured shall except on 30 the day it shall be impounded and on that on which it shall be released or sold be taken out of pound and depastured not less than *eight* hours in every *twenty-four* hours.

(5.) He shall within *twenty-four* hours of the impounding of such animal post a written notice thereof in the 35 form of the Tenth Schedule on some conspicuous part of his Pound and at such other places as the Inspector shall direct and shall maintain such notices until the same shall have been released or sold as hereinafter provided.

(6.)

- 5 (6.) He shall also within the same time send a copy of the afore-
 said notice by messenger to the Petty Sessions sitting
 nearest to and in the same district to his Pound if such
 Court be at a less distance than *five* miles from his pound
 or if more than that distance then by the first post after
 the impounding of such animal. Send like notices to
 Court House—
- 10 (7.) He shall also within the same time send notice in the form
 of the Eleventh Schedule of the impounding of any horse
 cattle or sheep that may not be released to the owner
 whose brand shall in terms of the Registration of Brands
 Act in force for the time being appear to be the last in
 order on the same as well as to the owner of any unbranded
 animal as may be known to him. Provided that if he has
 any reason to believe that any of such horses cattle or sheep
 belongs to a person other than the owner whose brand
 appears to be last in order as aforesaid he shall also send
 similar notices to such person of the impounding of such
 horses cattle and sheep in addition to that sent to the
 registered owner of such brand. Provided also that he
 knows the owner of any impounded goat or pig to be
 residing within *three* miles of his Pound he shall within
 the time hereinbefore specified send notice of the
 impounding of such goat or pig to the owner thereof. Send notice to owner
 according to Brand
 Directory—
- 15
 20
And to any other
 person supposed
 to be the owner.
- 25 (8.) He shall also where the ownership of any impounded animal
 has not been acknowledged to him within six hours of
 the date of the impounding thereof write out a notice of
 such impounding in the form of the Tenth Schedule and
 transmit the same for immediate advertisement in the
Gazette and in a local newspaper in the district in which
 his Pound is situated and the owner of such animal shall
 repay to the Poundkeeper the cost of such advertisements
 Provided that such cost for advertisement in the local
 newspaper shall in no case exceed that in the *Gazette*. Notice to known
 owners of pigs and
 goats within three
 miles.
- 30
Owners to repay
 advertising.
- 35 (9.) He shall report to the Inspector all breaches of the
 Registration of Brands Act coming under his notice. Send notice of
 unacknowledged
 animals to *Gazette*
 and local papers.

And if a Poundkeeper fail to comply with or offend against any of the
 provisions of this section or shall work or otherwise use any animal
 impounded at his Pound he shall besides being liable to dismissal
 for every such offence incur a penalty not exceeding *twenty pounds*. Penalty for failure
 in his duties.

Poundkeeper responsible to owner for loss or damage.

36. Every Poundkeeper shall be responsible to the owner of any animal impounded at his Pound for any loss or damage such owner may sustain through the loss of or injury to such animal while in his charge through the wilful act or neglect of himself or his servants.

5

XI.—RELEASE OF ANIMALS IMPOUNDED.

Release upon payment of charges and expenses.

37. If any owner shall claim any animal while impounded and tender or pay to the Poundkeeper the authorized impounder's charges and Pound charges and expenses due thereon the Poundkeeper shall deliver such animal to such owner who shall give a 10

When in doubt of ownership Poundkeeper to demand declaration from claimant.

receipt to the Poundkeeper for the same Provided that where there is any uncertainty as to whether or not the person claiming any such animal be the owner thereof the Poundkeeper may require such person to make a statutory declaration to the effect that he is the owner of

And also from owner of brand refusing to release.

the same Provided also that where a Poundkeeper has reason to 15 believe that any animal impounded in his Pound belongs to an owner who has received notice of the same being so impounded but refuses to release it such Poundkeeper may in like manner require such owner to make a statutory declaration that such animal is no longer his property and failing such declaration it shall be held to be the property 20 of such owner who on demand shall be liable to the said Poundkeeper for all fees and charges incurred in respect of the same until it is released or sold Provided always that a Poundkeeper shall not be bound to deliver up any impounded animal between sunset of any day and sunrise of the following day.

25

XII.—SALE OF ANIMALS IMPOUNDED.

Animals to be sold by poundkeeper on sale-day fixed by Justices as follows—

38. All animals impounded at any Pound and not released on the expiry of the periods hereinafter respectively mentioned shall be offered for sale and disposed of by public auction at such Pound by the Poundkeeper thereof without the payment of any license fee or 30 auction duty at noon on some one day in every week to be fixed from time to time for each of such Pounds by the Petty Session sitting nearest to and in the same district as such Pound and notified

in

in the *Gazette* unless such day be Good Friday Christmas Day or any Public Holiday and if so then on the next business day thereafter in the manner following namely—

- 5 (1.) Every horse head of cattle or sheep notice of the impound-
 ing of which has been duly sent by the Poundkeeper to the
 owner thereof and acknowledged by him in writing as his
 property or which has been so acknowledged without
 such notice shall (if not previously released) be offered
 at the first Pound sale which shall take place at the
 10 Pound at which such animal is impounded after the receipt
 by the Poundkeeper of the said acknowledgment.
- 15 (2.) Where notice of the impounding of any horse head of
 cattle or sheep has been sent to the supposed owner
 thereof and the Poundkeeper has received due intimation
 from such owner that the said horse head of cattle or sheep
 does not belong to him or where such owner or supposed
 owner has not acknowledged the receipt of such notice as
 aforesaid or has failed to claim the said horse head of cattle
 or sheep within the time in that behalf herein provided
 20 or where the ownership thereof is wholly unknown to
 the Poundkeeper then such horse or head of cattle or
 sheep shall if the other requirements of this Act have
 been duly complied with and if not previously released be
 sold at the first sale which shall take place at such Pound
 25 on the expiry of the following periods respectively after
 the date of the notice of the impounding of such horse
 head of cattle or sheep shall have appeared in the *Gazette*
 namely—*twenty-one* days in the case of any such horse
 or head of cattle and *fourteen* days in the case of any such
 30 sheep and such periods of *twenty-one* and *fourteen* days
 respectively shall be inclusive of the day on which the
 advertisement of the said impounding appeared in the
Gazette and also of the day of such sale.
- 35 (3.) Previous to offering any of the aforesaid horses cattle or
 sheep for sale the Poundkeeper shall produce to some
 Justice (not being the impounder thereof) residing in the
 district in which the Pound where such sale is intended
 to take place is situated his Poundbook or such extract
 therefrom as such Justice may require containing the
 entry

When acknowledged
by owner at first sale
thereafter—

When not acknow-
ledged horses and
cattle to be sold at
21 and sheep at 14
days respectively
from advertise-
ment—

Order by Justice to
be obtained before
sale takes place—

Justice may postpone sale—

Detention of Gazette—

Pigs and goats not claimed to be sold in forty-eight hours—

Bell to be rung before sale—

Number of animals to be put up—

entry of the impounding of such horses cattle or sheep and the *Gazette* and local newspaper (if the same have been advertised) containing the advertisement of such impounding as well as the detainer and all other documents and papers relating thereto And if the said Justice be 5 satisfied that the Poundkeeper has complied with the provisions of this Act with respect to any such horse cattle or sheep he may grant an order under his hand for the sale thereof on the day appointed as aforesaid or otherwise direct such acts to be done as have been omitted and in 10 the meantime may suspend the order for the sale of any such animal until a future day to be appointed by him Provided that where the *Gazette* containing the advertisement of any such animal cannot through detention of the mail or otherwise be produced to the said Justice within 15 the time appointed for the sale thereof he may on the production of the local newspaper containing the notice of the impounding thereof dispense with the production of the *Gazette* and if otherwise satisfied grant such order accordingly. 20

(4.) Every pig or goat impounded the ownership of which has been acknowledged to the Poundkeeper shall (if not previously released) be sold at the first Pound sale which shall take place after the date of such acknowledgment And if any pig or goat be not claimed or acknowledged 25 within *forty-eight* hours of the time of the impounding thereof such pig or goat shall (if not previously released) be sold at the first Pound sale which shall happen thereafter at the Pound at which such pig or goat is impounded And no Justice's order shall be necessary for the sale of any 30 pig or goat.

(5.) The Poundkeeper shall provide himself with such a bell as the Inspector of his Pound shall think sufficient and shall cause such bell to be rung near the Pound for fifteen minutes at least before the commencement of every Pound 35 sale.

(6.) The Poundkeeper shall not at any such Pound sale offer for sale in one lot more than *five* sheep goats or pigs nor more than *one* horse or head of cattle in one lot unless

unless in the case of a cow with her calf or a mare with her foal which may be offered together when such calf or foal is under *six* months old.

- 5 (7.) The Poundkeeper notwithstanding anything in this Act contained may sell impounded unbranded cattle or unbranded and unbroken horses above the age of *twelve* months the owner of which shall be unknown upon obtaining an order from a Justice as aforesaid and without first advertising the same in the *Gazette* and a local newspaper as in other cases required and shall pay over *two-thirds* of the net proceeds of the sale of such cattle or horses to the impounder thereof.
- 10 Unbranded cattle and unbranded unbroken horses to be sold without order—
- 15 (8.) A Poundkeeper may under the written authority of any owner of any impounded animal sell the same at the next appointed day of sale to be held by the said Poundkeeper after the receipt of such authority Provided however that no such animal shall be so sold until it shall have been seen and identified by the owner thereof as his property.
- 20 Animals may be sold on authority of owner—
- 25 (9.) Should the purchaser of any animal at any Pound sale dispute or refuse to pay the amount offered by him the Poundkeeper may re-offer such animal at the same Pound sale or at the first Pound sale thereafter and shall sell such animal at the risk of the former purchaser who shall be liable for all Pound fees charges and expenses incurred on such animal during the period between the day of sale when the same was first bought by such purchaser and that at which it was afterwards sold as well as the difference (if any) in the price brought by such animal at such last sale and that at which it was at first purchased.
- 30 Animals refused by purchaser to be put up again and sold at his risk—
- 35 (10.) Should any animal offered as hereinbefore provided at any Pound sale fail to be sold such animal shall be kept and offered at the next sale which shall take place at such Pound and if still unsold such animal after being offered and not sold at such second sale shall become the property of the Poundkeeper offering the same.
- (11.) The Poundkeeper shall receive the prices of all animals sold at such sales and shall grant receipts for the same.
- Stock twice offered but not sold to belong to Poundkeeper.
- Poundkeeper to receive price of Stock.

(12.)

Stock sold at Pound to be branded with Pound Brand.

(12.) The Poundkeeper shall, on the sale of any horses or cattle and before the delivery thereof to the purchaser brand the same with such brand as may be allotted for his Pound by the Chief Inspector.

Neither Poundkeeper nor surety nor Inspector to purchase stock.

39. No Poundkeeper acting as auctioneer at a Pound sale or his surety or the Inspector for such Pound or any member of the Police Force shall purchase any animal at such sale nor become possessed of any such animal within *twelve* months from the date of

Penalty for breach of this or preceding section.

the sale thereof And any Inspector Poundkeeper or other person who shall fail to comply with or offend against any of the provisions of this or of the next preceding section or any person who shall interrupt or hinder any Pound sale shall for every such offence incur a penalty not exceeding *fifty pounds*.

XIII.—DISPOSAL OF PROCEEDS OF POUND SALES.

Modes of disposal of actual proceeds—

40. Every Poundkeeper shall upon the termination of each month make up an account in the form of the Twelfth Schedule of all Pound sales held by him at his Pound during such month and he shall from the gross proceeds of such sales deduct (firstly) the Pound fees and fees for notices and sustenance charges as well as the expenses of advertising due on the animals sold at such Pound sales and (secondly) the impounder's charges claimed thereon And if after these deductions there should be any residue or net proceeds of such sales it shall be applied by the Poundkeeper as follows namely :—

Where animals are sold by owner's authority—

(1.) When the said animals have been sold under authority of the owners thereof as hereinbefore provided then the whole of such net proceeds after deduction of the cost (if any) of remitting the same shall be forthwith paid by the Poundkeeper to such owners.

Where sold as unbranded—

(2.) Where the said animals have been sold as unbranded as hereinbefore provided *two-thirds* of such net proceeds shall be forthwith forwarded by the Poundkeeper to the impounder of such animals after deduction of the cost (if any) of the remittance thereof; and the *remaining third* shall on or before the fourteenth day after the end of the month in which such animals were sold be paid over by

the

the Poundkeeper to the Clerk of the Petty Sessions sitting nearest to and in the same district as his Pound to be dealt with as hereinafter provided.

5 (3.) Where the animals sold are branded but have not been
 10 claimed or released the net proceeds thereof shall on or
 before the fourteenth day after the end of the month in
 which such animals were sold be paid over by the Pound-
 keeper to the Clerk of the Petty Sessions sitting nearest
 to and in the same district as his Pound to be dealt with
 as hereinafter provided.

Where sold as un-
 acknowledged or
 unclaimed.

41. Every Poundkeeper shall on or before the tenth day of
 every month furnish to the Clerk of the Petty Sessions sitting nearest
 to and in the same district as his Pound or to any Justice or Inspector
 whom such Petty Sessions may direct copies of his said monthly
 15 account in duplicate and shall at the same time produce to such
 Clerk Justice or Inspector as the case may be his Pound book and all
 receipts detainers and vouchers received at his Pound during the
 month for which such account is furnished And any Poundkeeper who
 shall fail to comply with or offend against any of the provisions of this
 20 or the next preceding section hereof shall for every such offence besides
 being liable to dismissal incur a penalty not exceeding *fifty pounds*.

Monthly account and
 book and papers to
 be sent to Clerk of
 Petty Sessions Jus-
 tice or Inspector.

Penalty for failure.

42. Where any such Poundkeeper's monthly account Pound
 book and other documents shall have been furnished as hereinbefore
 provided to a Justice or Inspector such Justice or Inspector as the
 25 case may be shall immediately compare and verify the same with the
 entries in the Pound book and with the detainers and notices of
 impounding relating to the animals mentioned in such account and
 shall cause any error or omission therein to be rectified by the said
 Poundkeeper And on being satisfied of the correctness thereof shall
 30 certify the same on both copies of the said account and shall return
 them to the said Poundkeeper for transmission with the net proceeds
 therein stated to the Clerk of Petty Sessions within the time herein-
 before specified for the payment thereof And the said Clerk on the
 receipt of such account and proceeds shall compare the amount shown
 35 thereon with the proceeds so transmitted to him and on being satisfied
 of the correctness of the same he shall forthwith forward such proceeds
 together with a copy of the said account bearing his certificate of
 correctness to the Colonial Treasurer and the remaining copy shall
 be posted and maintained for *one* month by the said Clerk on some
 40 conspicuous part of the Court House for general information And

Where Justice or
 Inspector examine
 account.

And certify

Accounts and pro-
 ceeds to be sent to
 Clerk of Petty Ses-
 sions.

Clerk of Petty Ses-
 sions to check and
 forward proceeds to
 Treasury.

where

Where documents are sent to Clerk of Petty Sessions in first instance.

where such account and the documents hereinbefore mentioned shall have been furnished to the said Clerk in the first instance he shall in like manner compare and verify the same and on being satisfied of the correctness thereof and of the proceeds received by him from such Poundkeeper shall transmit the said proceeds together with a copy of 5 the said account to the Colonial Treasurer and post the other copy at the Court House as hereinbefore provided Provided however that if the proceeds of the sale of any animal which has been paid over as aforesaid by a Poundkeeper to a Clerk of Petty Sessions shall be claimed by the owner of the said animal previously to the transmission 10 of such proceeds to the Treasury the same may with the sanction of the said Petty Sessions be paid over by the said Clerk to the owner of such animal upon his producing a statutory declaration that he was the owner of such animal at the time of the sale thereof.

Proceeds claimed before transmission may be paid by Clerk of Petty Sessions.

Actual proceeds if unclaimed to be handed over to hospitals in district.

43. The Colonial Treasurer shall keep a separate account of all 15 the net proceeds of Pound sales received by him as aforesaid And in case no claim to the same shall be duly made within *two* years next after the date of such sales such proceeds shall become a part of the Consolidated Revenue Fund of the Colony.

XIV.—DISPUTED IMPOUNDINGS.

20

Owners may release animals impounded or seized and appeal.

44. If the owner of any animal impounded or seized for the purpose of being impounded considers that any of the charges made by the impounder thereof are excessive or unauthorized or disputes the trespass said to have been committed by such animal or denies the legality of such impounding then such owner may pay the 25 impounder's charges so demanded as well as the authorized Pound charges and expenses (where they have been incurred) under protest and release such animal reserving his right to appeal in manner hereinafter provided against such impounding charge Provided that within twenty-four hours of the time when such animal was so released 30 he shall give to the Poundkeeper or impounder as the case may be in whose custody such animal was when released a written notice of appeal against such charges or impounding And where such animal has been impounded the Poundkeeper upon receipt of such impounder's charges and the authorized Pound fees charges and 35 expenses accompanied by such protest and notice shall not pay over such impounder's charges to him unless afterwards directed in writing

Poundkeeper to retain charges till appeal is decided.

to

to do so by such owner until a decision shall be given in such appeal
 and an order granted as hereinafter provided Provided that if such
 owner do not appeal within *one* month of the date of the notice
 thereof then such Poundkeeper shall on the expiry of that time pay
 5 over the said charges to the impounder.

Appeal must be
 made within one
 month of notice.

45. The owner of any animal released under protest and notice
 of appeal as hereinbefore provided shall bring such appeal before the
 Petty Sessions sitting nearest to and in the same district as the place
 where which such animal was found trespassing and such Court
 10 shall inquire into and hear and determine the said appeal and
 upon satisfactory proof of the legality of the charges made by
 the impounder and of the impounding may order and award to
 the impounder the charges claimed by him or so much thereof
 and of such costs and expenses as such Court may think reasonable
 15 And where an animal has been impounded the Poundkeeper to
 whom such impounder's charges were paid as aforesaid shall upon
 the receipt of a written order by the said Court to that effect pay
 over to the impounder the amount of such charges so ordered to
 be paid to him But if it shall appear that the charges claimed
 20 by the impounder are excessive then the said Court shall order
 such impounder or Poundkeeper as the case may be to repay to
 the owner appealing as aforesaid so much of such impounder's
 charges as such Court may consider excessive and the said impounder
 to pay such owner all costs and expenses incurred by the said owner
 25 in the bringing and hearing of the said appeal And if it shall appear
 that such impounding was illegal then such Court shall order such
 impounder or Poundkeeper as the case may be to return to such
 owner the whole amount so paid under protest and the said impounder
 to pay such owner all costs and expenses as aforesaid And such Court
 30 shall also assess the compensation whatever the amount thereof may
 be to be paid by the impounder to the said owner for the loss and
 injury sustained by him through such illegal impounding and such
 compensation shall include loss of time outlay deterioration of the
 animal impounded and all other losses damages and expenses incurred
 35 by such owner through such illegal impounding.

Petty Sessions to
 hear and decide
 appeal.

If in favor of appel-
 lant.

If against appellant.

Charges to be repaid
 to owner.

With costs and com-
 pensation.

XV.—MISCELLANEOUS.

Goats and swine
trespassing may be
destroyed.

46. The occupant of enclosed lands may destroy any goats or swine found trespassing thereon provided that he shall have previously given the owners of such goats or swine where known written notice of his intention to destroy them in the event of their trespassing on his land Provided also that Angora Cashmere or any goats legibly branded with the owner's known or station brand duly registered with the Inspector for the Sheep District in which such goats are kept or depastured the hair or wool of which goats is used for manufacturing purposes shall not be subject to the provisions of this section. 10

Wild unbranded and
unbroken horses may
be destroyed

47. Any occupant finding any unbranded and unbroken horses above the age of *two* years trespassing on his land may destroy the same without being liable to the owner thereof for any compensation

Also unmanageable
branded horses after
notice.

And any occupant finding any wild or unmanageable branded horse trespassing on his land may if the owner of such branded horse be known to him give such owner written notice to remove the said branded horse within *one* month from the date of the delivery of such notice And if the owner of such branded horse be not known to such occupant he may give notice to the same effect setting forth the brands so far as legible and descriptions of such horse for *three* consecutive weeks in the *Gazette* and some local newspaper And failing the removal of such horse in terms of either of such notices such occupant may destroy such branded horse without being liable to the owner thereof for any compensation. 15 20

Unauthorized
persons not to keep
and advertise stray
stock.

48. Any occupant or other person detaining any animal in any place other than a public Pound for the purpose of advertising or of impounding such animal except as hereinbefore provided with respect to neighbour's stock shall for every such offence incur a penalty not exceeding *twenty pounds*. 25

Penalty for wilful
trespass.

49. Every person who shall wilfully admit or knowingly permit any animal to enter upon any cultivated land or grass land enclosed by a sufficient fence without first obtaining the authority of the occupant thereof or any owner of travelling stock who shall knowingly permit the same to trespass upon any land other than Crown Lands (whether enclosed or not) for a greater distance than *two hundred* yards from the centre of the road by which such stock is travelling after being warned by the occupant of such land that the same is not Crown Lands shall for every such offence incur a penalty not exceeding *twenty pounds* 30

Not to affect civil
remedy.

Provided that no conviction for such offence shall affect any civil remedy

remedy against such offender Provided also that this section shall not apply to travelling stock travelling by a road through or along any Crown Lands enclosed by a sufficient fence.

Not to apply to travelling stock in certain cases.

50. Every person who shall drive or attempt to drive any animal of which he is the owner from the land or out of the herds or flocks of any occupant without first giving such occupant *one* day's notice of his intention so to do or who having given such notice shall drive or attempt to drive any animal from such land without giving the occupant thereof an opportunity of accompanying him or sending a servant to accompany him shall for every such offence incur a penalty not exceeding *twenty pounds* Provided nevertheless that no person having any animal trespassing upon any land shall be entitled to enter on such land more than *once* in the same month Provided also that this section shall not apply to any owner of travelling stock passing along or near and not at a greater distance than *half* a mile from any road intersecting or forming the boundary line of any Crown Lands between which and such road no sufficient fence exists Provided that nothing herein contained shall affect any criminal proceeding for such driving And every person who on being found by an occupant committing any offence against this section shall refuse when required by such occupant to give his name and place of abode may be thereupon apprehended by such occupant and taken to and detained at the nearest lock-up until he can be taken before a Justice of the Peace and dealt with by the nearest Court of Petty Sessions as hereinbefore provided by this section Provided that any Justice of the Peace Sub-inspector or Senior-sergeant of Police may liberate such person so apprehended on his giving reasonable bail for his attendance before a Justice of the Peace to answer for the offence for which he was apprehended And any person who upon being required to give his name and place of abode shall give a false or fictitious name or place of abode shall for every such offence forfeit and pay any sum not exceeding *ten* pounds.

Stock not to be driven by an owner from land without notice to the occupant.

Limit to giving such notice.

This section not to apply to travelling stock on Crown Lands.

Not to affect criminal action.

Persons refusing to give the names may be apprehended.

51. Every person who shall rescue or attempt to rescue or incite or assist any other person in rescuing any animal lawfully impounded or seized for that purpose or shall break open injure or destroy any Pound or any fence of any yard paddock or other place where animals are kept while impounded or seized for that purpose or commit any breach or rescue whereby any such animal shall escape or be enlarged or who shall in any way interfere with or disturb any animal impounded or seized for that purpose or who shall hinder or obstruct

Penalty for rescuing animals seized or impounded and for pound-breaking.

obstruct any occupant in the seizing or impounding of any animal shall for every such offence incur a penalty not exceeding *one hundred pounds*.

Penalty for false entry report or notice.

52. Any Inspector Poundkeeper or other person who shall make or subscribe any travelling permit notice intimation report entry return 5 or account knowing the same to be false or shall wilfully delay making any entry or shall knowingly make any false entry or shall wilfully erase or destroy any entry relating to the seizure impounding release delivery travelling or sale of any animal or who shall in connection therewith give or make any false travelling permit receipt or extract knowing 10 the same to be so shall on conviction for every such offence be liable to imprisonment for any period not exceeding *two years*.

Penalty for destroying notices.

53. Any person who shall pull down deface or otherwise destroy any notice or placard required by this Act to be posted shall for every such offence incur a penalty not exceeding *twenty pounds*. 15

General penalty for offences not specially mentioned.

54. Every person who shall wilfully commit any offence against this Act or any regulations thereunder for which a penalty is not herein expressly provided shall for every such offence incur a penalty not exceeding *ten pounds*.

XVI.—REGULATIONS.

20

Regulations may be made.

55. The Governor may from time to time frame all such regulations and forms as may be necessary for carrying out the provisions of this Act And all such regulations and forms when published in the *Gazette* shall thereupon have the force of law and shall be laid before both Houses of Parliament forthwith if 25 Parliament be then sitting and if not then within *one* month of the commencement of the next Session.

To be published in *Gazette*—

And laid before Parliament.

XVII.—EXPENSES.

Expenses to be paid from that Fund.

56. The Colonial Treasurer shall under warrant of the Governor from and out of the Consolidated Revenue Fund pay all 30 expenses incurred in the erection removal or purchase of Pound-yards for Inspectors' salaries and other sums authorized by this Act.

XVIII.—LEGAL PROCEDURE.

Notifications in the *Gazette* to be proof in all Courts.

57. The production of the *Gazette* containing a notification of the establishment of any Pound or Pound reserve of the appoint- 35 ment removal or dismissal of any Inspector of Pounds or Pound-keeper

keeper of the Pound charges and expenses of the appointment of a day of sale for any Pound and of any other matter or thing required by this Act to be so notified shall be held in all Courts to be proof of the facts therein set forth.

5 58. In questions of proof before any Court of law the entry in any Pound book or in any book account or register kept by a Pound-keeper under the authority of this Act of the impounding description brands or marks or of the release or sale of any animal or of the amount or payment of any impounder's charges or Pound charges or
 10 expenses or of any other matter or thing of which an account is by this Act required to be kept by a Poundkeeper shall be *prima facie* evidence of the matters contained in such entries.

Entries by pound-keeper in Pound and other books to be *prima facie* evidence.

 59. Every notice intimation or reply which is required by this Act to be given either by a Poundkeeper to an owner or occupant or
 15 by an owner or occupant to a Poundkeeper or by an owner to an occupant or an occupant to an owner shall unless the mode of giving the same be otherwise herein directed be held to have been duly given in any of such cases on proof of its having been delivered personally to the person to whom it was addressed or of its having been left at
 20 his usual place of abode or of its having been delivered through the post by registered letter so addressed.

Proof of delivery of notices.

 60. Every information under this Act may be exhibited before any Justice not being the owner of any animal in respect whereof such information is exhibited and all proceedings for the recovery of any
 25 penalty compensation or damages sums of money or other sums whatever the amount may be by this Act imposed incurred or made payable or any action necessary to determine the ownership of any animal impounded hereunder or of the proceeds thereof shall be dealt with in a summary way before any Court of Petty Sessions and any
 30 penalty inflicted or any sum ordered to be paid by such Court shall be levied by distress and sale of the goods and chattels of the offender or defendant as the case may be and in failure of distress shall be enforced in manner provided by the Act eleventh and twelfth Victoria chapter forty-three and any Acts amending the same.

Procedure under this Act to be taken in Petty Sessions.
Hearing.
Levy.

35 61. No proceedings under this Act shall be quashed for want of form or removed by writ of *certiorari* or otherwise into the Supreme Court of the Colony.

Want of form.

 62. Any person ordered or adjudged to pay any sum fine penalty or forfeiture amounting to the sum of *twenty pounds* who shall

Appeal to where fine exceeds £20.

shall think himself aggrieved by the judgment of the Justices adjudicating or before whom he was convicted may appeal to the next District Court in and for the district within which the same shall have taken place upon giving immediate notice to the Justices so adjudicating or convicting of his intention to bring such appeal and 5 finding sufficient security to their satisfaction for duly prosecuting the same And such Court is hereby authorized and required to hear and determine the matters of such appeal and either to confirm or set aside the said conviction and to award such costs to either party as to such Court shall seem reasonable and the decision thereof shall be 10 final and conclusive.

Ordinary damages may be waived and case taken to higher Court.

63. Nothing herein contained shall prevent the occupant of any lands trespassed upon from waiving the damages set forth in the Fifth Schedule hereto and suing for the damages sustained by him in consequence of such trespass in any Petty Sessions District Court or the 15 Supreme Court of the Colony according to the amount of his claim for such damages Provided that if the plaintiff in any suit or action for such damages shall not recover more than the amount of damages he would have been entitled to under the said Schedule then he shall not be entitled to recover from the defendant the cost of such suit or 20 action but the defendant shall be entitled to recover from the plaintiff the costs incurred by him in the defence thereof And if the plaintiff in any suit or action become nonsuited or discontinue the same or if judgment be given against him therein the defendant shall be entitled to recover double costs from the plaintiff. 25

Plaintiff failing to recover special damages.

Where he is nonsuited or discontinued.

Judgment under this Act a bar to further proceedings.

64. Any judgment or conviction duly made under this Act shall and may except as otherwise hereinbefore provided be pleaded in bar of any suit action or information which shall be commenced instituted or prosecuted for the same cause and offence in any Court whatever.

65. All fines and penalties levied under this Act unless other- 30 wise expressly appropriated shall be paid over to the Colonial Treasurer and become part of the Consolidated Revenue of the Colony.

XIX.—COMMENCEMENT AND TITLE.

Commencement and short title.

66. This Act shall commence and take effect on and after the first day of next and shall be styled and may be cited for all 35 purposes as the "Impounding Act of 186 ."

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Detainer.

To the Poundkeeper of the _____ Pound.

Please impound the undermentioned stock.

| No. | Kind. | Sexes. | Legible Brands and Marks. | Where trespassing when seized and cause of Impounding. | Impounder's Charges. | | | | Name and Address of Owner or supposed Owner. | Time of Impounding. | |
|-----|-------|--------|---------------------------|--|-----------------------|----------|--------------------|---------------|--|---------------------|-------|
| | | | | | Damages for Trespass. | Mileage. | Tolls and Ferries. | Grass Charge. | | Date. | Hour. |
| | | | | | | | | | | | |

Signed _____

SECOND SCHEDULE.

Time fixed for Impounder sending Notice of the Seizure of a Neighbour's Stock and for their Detention in Impounder's Yard.

| Distance between the yard where stock is detained and the residence of the owner thereof. | Time within which an occupant who has yarded and intends to impound a neighbour's stock shall give him notice of such intention counting from the time the same were yarded. | Time during which an occupant who has placed stock belonging to a neighbour in a yard and given notice of impounding shall keep them there counting from the time such notice was delivered. |
|---|--|--|
| Any distance not exceeding two miles... | Three hours | Four hours. |
| Any distance exceeding two miles and not exceeding five miles..... | Four hours | Five hours. |
| And for every additional five miles or portion of five miles | One hour | One hour. |

THIRD SCHEDULE.

IMPOUNDING ACT OF 1869.

Application for a Travelling Permit for

I _____ of _____ do solemnly and sincerely declare as follows:—

1. That I am the owner of the _____ set forth in the Schedule hereunto annexed.
2. That I am desirous of obtaining a Travelling Permit for travelling such _____ for the purpose of delivering the same to _____ of _____ who has purchased them of me [*or for sale on my account*].
3. That such _____ are intended to be travelled by the route and to the destination mentioned in the said Schedule.
4. That such _____ are intended to be so travelled solely for the purpose set forth above and not for the purpose of obtaining feed and water for them And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the ninth year of the Reign of Her present Majesty intituled "*An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales and to substitute Declarations in lieu thereof and for the suppression of voluntary and extra-judicial Oaths and Affidavits.*"

Declared before me at _____ this _____ day of _____ 18 . _____ }
 J.P. } Owner.

SCHEDULE

SCHEDULE REFERRED TO ABOVE.

| Number of | Description | Brands and Marks. | Name and Address of Owner and of person to be in charge. | From what Run and District. | Route intended to travel. | Destination. |
|-----------|-------------|-------------------|--|-----------------------------|---------------------------|--------------|
| | | | | | | |

This is the Schedule referred to in the declaration of _____ hereunto annexed and made before me this _____ day of _____ J.P.

FOURTH SCHEDULE.

IMPOUNDING ACT OF 1869.

Travelling Permit.

THE owner mentioned in the Schedule below having duly made application to me in the form required by the Impounding Act of 186 for a Travelling Permit for the _____ set forth in the Schedule below I the undersigned Justice of the Peace do hereby grant this Travelling Permit on condition that the said _____ commence to travel within fourteen days from the date hereof and continue to travel along the route and to the destination in such Schedule mentioned at the rate of at least six miles per day.

Dated at _____ this _____ day of _____ 18 _____ } J.P.

SCHEDULE REFERRED TO ABOVE.

| Number of | Description. | Brands and Marks. | Name and Address of Owner and of person in charge. | From what Run & Police District. | Route to be travelled. | Destination. |
|-----------|--------------|-------------------|--|----------------------------------|------------------------|--------------|
| | | | | | | |

FIFTH SCHEDULE.

Rates of Damage to be charged for Trespass.

| Description of Animals trespassing. | In any paddock of grass enclosed by a sufficient fence. | In any garden uncut meadow or growing crop of any kind enclosed by a sufficient fence. |
|---|---|--|
| For every head of horses or cattle..... | s. d. 1 0 | s. d. 4 0 |
| For every sheep | 0 1 | 0 4 |
| For every goat | } 2 0 | } 6 0 |
| For every pig..... | | |

SIXTH SCHEDULE.

Rates of Mileage for taking animals to Pound.

| Description of Animals trespassing. | Per Mile. |
|-------------------------------------|---|
| Horses or cattle | For one head <i>six-pence</i> —for every two and not exceeding five head <i>three-pence</i> —for every six and not exceeding ten head <i>one penny</i> —and for any number exceeding eleven head impounded by the same person and at the same time <i>one half-penny each</i> . |
| Sheep | |
| Every goat | <i>Six-pence.</i> |
| Every pig | <i>One shilling.</i> |

SEVENTH SCHEDULE.

Pound Fees.

| | For one head. | Per Head. | | |
|----------------------|---------------|--------------------------------------|--------------------------------------|-------------------|
| | | For two head and not exceeding five. | For five head and not exceeding ten. | For ten or more. |
| | s. d. | s. d. | s. d. | s. d. |
| Horses | 1 0 | 0 9 | 0 6 | 0 3 |
| Cattle | 1 0 | 0 9 | 0 6 | 0 2 |
| Sheep | 0 3 | 0 1 | 0 0 $\frac{1}{2}$ | 0 0 $\frac{1}{4}$ |
| Goats or swine | 0 6 | 0 3 | 0 2 | 0 1 |

EIGHTH SCHEDULE.

Poundkeepers' Charges.

| | |
|---|-------|
| For every production of the Pound or other Book or paper or stock impounded | s. d. |
| For supplying any extract—for the first one hundred words..... | 1 0 |
| For every additional hundred words or part thereof | 0 6 |
| For every reply letter or communication sent by post in answer to any inquiry (besides postage) | 1 0 |
| For every notice sent by messenger for every mile travelled—one way only chargeable | 0 1 |
| For every notice sent by post (besides the postage) | 1 0 |
| For registering a single brand of one or more letters | 2 6 |
| For registering two or more brands belonging to the same owner at the same time each brand | 1 6 |

NINTH SCHEDULE.

Form of Pound Book.

| No. | When Impounded. | | Description of Animals impounded. | Brands and Marks. | Name and Address of Owner or Supposed Owner as given by the Impounder. | Cause of impounding. | Place impounded from. | Name and Address of Impounder |
|-----|-----------------|-------|-----------------------------------|-------------------|--|----------------------|-----------------------|-------------------------------|
| | Date. | Time. | | | | | | |
| | | | | | | | | |

| Impounder's Charges. | | Notice to Owner. | | Poundkeeper's Expenses and Fees. | | | | Total Charges Expenses and Fees. | How disposed of. | | | | | |
|-----------------------|----------------------|------------------|-------|----------------------------------|-------------------|-------------|----------------------|----------------------------------|--------------------------------|-------|--------------------------------|--------|--|---------|
| Damages for Trespass. | Charges for Driving. | Date. | Mode. | Expense of Advertising. | Fees for Notices. | Pound Fees. | Fees for Sustenance. | | Released. | | Sold. | | | |
| | | | | | | | | Date. | Signature of Person releasing. | Date. | Name and Address of Purchaser. | Price. | | |
| | £ s. d. | | | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | | | | | | £ s. d. |

TENTH SCHEDULE.

Notice of Impounding—By Placard and in Gazette.

Impounded at damages on the mileage day of by the following viz. :—

Table with 6 columns: No., Animal, Brands Marks &c., Supposed Age, Height, Sum due at Date of Notice. (Subdivided into £, s., d.)

If not released will be sold at this Pound at noon on the

P. K.

ELEVENTH SCHEDULE.

Notice of Impounding (or Seizure) sent to Owner.

Pound (or occupant's address).

(date.)

Take notice that head of the descriptions and brands of which are given hereunder were impounded at this Pound (or yarded at this place for the purpose being impounded) on the day of by of for trespass on lands at on each of which claim as Impounder for damage for trespass for mileage for driving for notice of seizure and for toll or ferry: And that such if not previously released will be sold at this Pound on the day of (or be sent to the Pound at at m).

P. K.

LIST REFERRED TO ABOVE :—

P. K.

TWELFTH

[1s. 5d.]

Sydney: Thomas Richards, Government Printer.—1860.

TWELFTH SCHEDULE.

PARTICULARS of the Sale of Animals at

for the Month of

186 .

| No. | Date of Sale. | Description. | Brands and Marks. | To whom sold. | Gross Amount of Sale. | Charges, Expenses, and Fees deducted. | | | | | | Actual Proceeds of Sales. | | | | | | | |
|---------|---------------|--------------|-------------------|---------------|-----------------------|---------------------------------------|---------------------------------------|-----------------------------|-------------------|-------------|----------------------|----------------------------------|---|---|---|--|--|--|--|
| | | | | | | Impounder's Charges. | | Pound Charges and Expenses. | | | | Total Charges Expenses and Fees. | Paid to C. P. S. | Paid to Impounder. | Paid to Owner. | | | | |
| | | | | | | Damages for Trespass | Driving Charges Tolls and Ferry Dues. | Expense of Advertising. | Fees for Notices. | Pound Fees. | Fees for Sustenance. | | Being net proceeds of unclaimed animals sold. | Being net proceeds of unbranded animals sold. | Being net proceeds of animals sold under Owner's authority. | | | | |
| £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Examined and found to be correctly stated and vouched and the Actual Proceeds of Sales of Unclaimed Animals amounting to £ _____ handed over by the Poundkeeper to me this date.

Dated at _____ the _____ day of _____ 186 .

Court House

186 .

C.P.S.