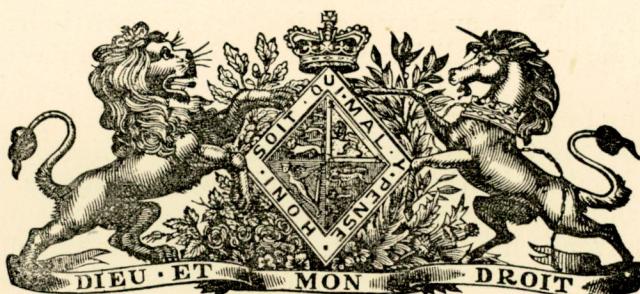


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 12 January, 1876.*

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO TRICESIMO NONO

VICTORIAE REGINÆ.

No. .

An Act to amend the "Impounding Act of 1865."

WHEREAS it is desirable to amend the "Impounding Act of 1865" 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 Wales in Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited as the "Impounding Act Amendment Act of 1876" and shall be read with and as forming part of the Act twenty-ninth Victoria number two being the "Impounding Act of 1865" hereinafter termed the "Principal Act." Short title.
Act to form part of
twenty-ninth Victoria number two.
- 10 2. In case the owner of any animal impounded under the provisions of the principal Act shall dispute the legality of the damages claimed for the trespass thereof or in connection therewith or of the impounding such owner may appeal by complaint as is hereinafter provided and may either allow the animal to remain in the pound or otherwise pay the damages claimed if any with the pound fees or the said fees only where no damages have been claimed Owner of animal
impounded may
appeal against
damages claimed or
impounding.

Impounding Act Amendment Act.

and release the animal and give in either case notice in writing to the poundkeeper of his intention to appeal against the legality of the damages claimed or of the impounding as the case may be and upon receipt of such notice such poundkeeper shall not pay over such damages if any but keep the same in his possession until the decision of the justices as hereinafter provided shall be made known to him or until the expiration of the time hereinafter mentioned.

3. The owner of the animal so impounded where the legality of the damages claimed or of the impounding shall be disputed as afore-
 10 said may make his complaint in writing within fourteen days of the date of the aforesaid notice to the poundkeeper to any Justice of the Peace who shall thereupon issue a summons to the impounding party to appear before two or more Justices at the Court of Petty Sessions nearest to the place of the pound where the animal shall have been impounded
 15 and the Justices then assembled shall summarily inquire and examine into and hear and determine such complaint and if it shall appear to the said Justices that the damages claimed are contrary to law or that the impounding was illegal then such Justices shall adjudge and order accordingly and if necessary reduce the damages to the proper scale or
 20 amount and shall assess the amount of compensation for loss of time labor pound fees or otherwise and costs which the owner of such animal upon which illegal damages shall have been claimed or which was so impounded illegally shall be entitled to in consequence of such illegal claim or impounding to be recovered as hereinafter is provided but if
 25 on satisfactory proof of the trespass for which the animal was impounded and the legality of the damages claimed if any or of the legality of the impounding respectively such Justices shall dismiss the appeal and shall deliver a minute of such dismissal to the impounding party on receipt of which minute or a duplicate thereof by the pound-
 30 keeper if the animal so impounded shall have been allowed to remain in the pound he shall take and observe the same course in regard to the animal's detention sale and other matters as if the animal had been retained under ordinary circumstances excepting that the animal shall not be released by the owner thereof until payment shall have been
 35 made of the damages claimed if any as well as the pound fees due up to the day of release or of the latter only if no damages have been claimed and in case the owner shall have released the said animal as aforesaid then the poundkeeper shall hand over to the impounding party the amount of damages he has received if any and such Justices
 40 may make such order for costs as they shall think fit.

4. Whenever any order shall have been made in favor of any owner as aforesaid and he shall have released the animal relative to the trespass of which the appeal was made and the total amount ordered to be returned if any together with the amount assessed and
 45 allowed to the owner thereof as provided in the last preceding section shall not exceed the sum if any paid to the poundkeeper in terms of section two hereof exclusive of the pound fees then such Justices shall order in writing the poundkeeper to return to the owner of such animal such amount so paid exclusive of the said fees or so much thereof as shall cover
 50 the over-charge and the amount assessed as aforesaid and to pay to the impounding party the balance thereof if any but if such total amount shall exceed the sum so paid or if no sum shall have been so paid then the balance or the whole amount so awarded as the case may be shall be recoverable by distress and sale of the goods and chattels of the person
 55 ordered to pay the same and in default of sufficient distress by his imprisonment with or without hard labour for any period not exceeding one month unless sooner paid and in the event of the animal not having been released the said Justices shall issue a written order to the poundkeeper for the release thereof to the owner on payment by him

On complaint by owner of animal impounded justice to issue summons.

Course to be pursued where damages claimed or impounding illegal.

Steps to be taken when damages claimed or impounding found to be legal.

If appeal dismissed costs may be allowed.

How amount awarded to owner of animal to be recovered.

Impounding Act Amendment Act.

him of the pound fees due up to the day of release and also of the reduced damages allowed the impounding party if any less the amount assessed as aforesaid.

5. If after a written notice has been given to any poundkeeper If poundkeeper does not receive order &c. within a month how to proceed. in terms of this Act he shall not have received the minute or one or other of the orders as aforesaid within one month from the date of such notice he shall act and proceed in regard to the animal impounded relative to which the notice was given if still in the pound or if the animal was released the poundkeeper shall pay over to the impounding party the damages received if any as if no such notice had been given to such poundkeeper.

6. In any case where any entire horse or bull shall have been impounded under the provisions of section thirty-one of the principal Act and a greater amount of damages shall have been claimed therefor Appeal allowed in certain cases when special damage claimed for entire horse or bull. than is authorized by the First Schedule of the said Act it shall be lawful for the owner of such entire horse or bull to appeal by complaint in manner and the like proceedings shall be taken and the appeal shall be subject to the conditions provided by sections two three four and five hereof and if such owner shall satisfy the adjudicating Justices 20 that no damages accrued by or through the trespass of such entire horse or bull other than would have been covered by either of the rates chargeable under the First Schedule of the principal Act according to the nature of the trespass as defined thereunder such Justices shall reduce the damages to one or other of the scales authorized by the 25 said Schedule and may in any case make such order for costs as they shall think fit.

7. Any person wilfully leaving open any gate or slip-panel or making any gap in any fence thereby permitting or causing any animal to trespass or otherwise wilfully causing any animal to trespass Wilful acts to cause trespass. 30 shall be guilty of an offence.

8. Any person impounding any animal shall in writing inform the poundkeeper of the place where the animal was trespassing the kind of the fence if any round it and the crop if any upon it and failing to do so in any respect shall be guilty of an offence.

35 9. Any poundkeeper who shall wilfully disobey any order made or addressed to him or minute served on him by virtue of or under the authority of this Act or who shall sell any impounded animal prior to the time required or authorized by or under the principal Act as amended by this Act or who shall demand or receive from any 40 person any trespass damages not authorized to be charged or claimed under the said Act so amended shall be guilty of an offence in each case.

10. Any person guilty of an offence under this Act shall be liable to a penalty not exceeding five pounds which may be recovered How certain offences to be dealt with. 45 before any two Justices.

11. Any poundkeeper or other person wilfully doing any act or thing contrary to the provisions of the principal Act or this Act or wilfully neglecting to comply with any requirement or condition thereof shall be deemed to have been guilty of an offence under section thirty-nine of the principal Act and may be dealt with thereunder unless such offence is otherwise expressly provided for in that Act.

12. Any costs awarded under the provisions of this Act shall How costs recoverable. unless otherwise provided for be recoverable by distress and sale of the 55 goods and chattels of the person adjudged or ordered to pay the same and in default of sufficient distress by his imprisonment with or without hard labour for any time not exceeding one month unless such costs shall be sooner paid.

Impounding Act Amendment Act.

13. Any one Justice may sign the minute of dismissal or any One Justice may sign minute or order. order herein authorized to be made or issued and it shall not be necessary that the Justice who so signs was one of the adjudicating Justices.

5 14. The term "damages" whensover used or appearing in this Interpretation. Act shall unless the context otherwise indicate be taken to mean or include rates for driving tolls ferry dues or other charges and increased trespass damages authorized to be charged or claimed by the principal Act or any part of such damages.

Sydney : Thomas Richards, Government Printer.—1876.

[3d.]