

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE COUNCIL,
13TH SEPTEMBER, 1878.]

Hon. Colonel Whitmore.

Brands Registration.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Repeals.</p> <p>3. Interpretation.</p> <p style="text-align: center;">BRANDING OF STOCK.</p> <p>4. Districts.</p> <p>5. Registrars of Brands.</p> <p>6. Registration offices for brands.</p> <p>7. Owners of stock to register brands. Fee.</p> <p>8. Brands already registered to be valid. Similar brands not to be registered. Registrar may require brand to be altered.</p> <p>9. Council to obtain list of brands.</p>	<p>10. Penalty for using another person's brand.</p> <p>11. Penalty for branding stock without authority, or defacing brands.</p> <p>12. Brand evidence of ownership.</p> <p>13. Brand may be abandoned.</p> <p>14. Cattle and sheep to be branded.</p> <p>15. Cattle need not be branded.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>16. Penalty for removing ears of animals.</p> <p>17. Fees recoverable summarily.</p> <p>18. Administration of Act outside counties. Schedule.</p>
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A BILL INTITULED

AN ACT to regulate the Branding of Cattle and Sheep, and the Registration of the Brands used for that purpose. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "The Brands Registration Act, 1878;" and it shall take effect on and after the first day of January, in the year one thousand eight hundred and seventy-nine. Short Title.
2. The several enactments enumerated in the Schedule hereto annexed are hereby repealed, subject to the limitations in the said Schedule mentioned, but this repeal shall not affect— Repeals.
- (1.) Anything duly done or suffered; or,
- (2.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence against any enactment hereby repealed; or,
- (3.) Any legal proceeding for recovering or enforcing any such penalty, forfeiture, or punishment as aforesaid, or for the proof of any matter in connection therewith; and such legal proceeding may be carried on and completed as if this Act had not passed.
3. In the construction of this Act the terms following within inverted commas shall, if not inconsistent with the context and subject-matter, have the meanings hereby respectively assigned to them, that is to say,— Interpretation.
- "Cattle" includes any bull, cow, ox, steer, heifer, or calf;
- "Sheep" includes any ram, ewe, wether, or lamb;
- "Stock" includes cattle and sheep as herein defined, and shall apply to any one or more animals of the aforesaid several kinds;

“Brand” means and includes a distinct and plain mark, made as follows:—

In the case of cattle, burnt with a branding-iron into the skin, or on the horn:

In the case of sheep, with pitch, tar, paint, raddle, lampblack mixed with oil or tallow, or other suitable substance, in letters, figures, or otherwise, not less than two inches in length on the sides, back, shoulders, hips, or rump; and also by cutting, splitting, or punching the ear, but so that in no case more than one-third part of the whole ear from the tip thereof shall be removed, or by fire brand on horn or cheek. 5 10

“Stockowner” or “owner,” having reference to any stock, means every person claiming jointly or in severalty (other than a mortgagee not in possession) any right, title, or interest in any stock, and every superintendent and overseer or other person in possession or charge of any stock; 15

“Borough” includes every city, town, or borough incorporated under any enactment of the General Assembly or of any Provincial Council; 20

“County” includes every county wherein the whole of “The Counties Act, 1876,” is in force.

“Council” means the County Council of any such county.

BRANDING OF STOCK. 25

Districts.

4. For the purposes of this Act every borough shall be deemed to be included within the county wherein it is situate, or to which it is immediately contiguous.

Every county as herein defined, inclusive of the aforesaid boroughs, shall be a district under this Act: Provided that if any borough shall be situated contiguously to more than one county the Governor shall by Proclamation declare within which such county it shall be deemed to be included. 30

Registrars of Brands.

5. The Council of every county may from time to time appoint such persons as they shall think fit to be Registrars of Brands, and regulate the payment of such persons. The Council may also remove any such persons as they shall think fit. 35

Registration offices for brands.

6. The Council may appoint the chief office of the Registrar to be at any place or borough within the county, and may establish branch offices for registration of brands, and appoint persons to act as Registrars at such branches. A copy of every registration effected during the month at a branch office, and of every alteration made in any register at such office, shall be transmitted within the first week of the ensuing month by the person in charge of such branch office to the Registrar at the chief office of the district. 40 45

Every register shall be open for inspection, without payment, by any Justice of the Peace, constable, or officer of any Council, and by any other person, at all reasonable times, on payment of a fee of one shilling.

Owners of stock to register brands.

7. Every stockowner shall deliver to the Registrar of Brands of the district wherein his stock are running or are intended to run, for registration, by him, a description of the brand which such owner uses or purposes to use in branding his stock, and shall deposit two correct copies or impressions of his brand with such Registrar; and every owner neglecting to register his brand shall be liable to a penalty not exceeding five pounds, and an additional penalty of not more than five pounds for every week he shall continue such neglect after the first conviction. 50 55

There shall be paid by the owner of every brand to the Registrar who shall registrar the same a fee of *five* shillings in respect of the registration of such brand. Fee.

8. All brands which have heretofore been duly registered under any law in force within any provincial district shall, for the purposes of this Act, be deemed to have been registered under this Act, and to be in force within the county or locality in which the stock bearing such brands shall be depastured at the time of the passing of this Act. No Registrar of Brands shall register any brand likely, in his opinion, to lead to mistakes or confusion. Brands already registered to be valid.

If any two stockowners within the same district have the same or similar brands, the Registrar of Brands for the district may require the owner who has used the brand during the shortest period of time within the district to alter his brand. Registrars may require brand to be altered.

15 In case of any dispute the same shall be determined in a summary manner by any one Justice of the Peace.

Any owner who refuses or neglects to alter his brand accordingly when duly required so to do, and afterwards uses the said brand, shall be liable to the same penalties as are herein provided in the case of any person using another person's brand.

9. The Council shall obtain at the office of the person who was the Registrar of Brands in the provincial district or provincial districts within which the county is situate, a copy of all the brands existing therein which at the time of the passing of this Act were registered for stock depasturing within the limits of the county. Council to obtain list of brands.

10. After any stockowner shall have registered a brand, it shall not be lawful for any other person, without the authority of such stockowner, to brand any stock with the same brand, or with any brand bearing the same mark or one so nearly similar as in the opinion of any Registrar to be not readily distinguishable therefrom, or to make or cause to be made any branding-iron bearing the same or a nearly similar brand as aforesaid; and any person offending against this enactment shall be liable to a penalty not exceeding *fifty* pounds. Penalty for using another person's brand.

11. If any person shall brand any stock without the authority of the owner thereof, or shall deface or efface any brand or other distinguishing mark or impression upon any stock without such authority in writing, he shall be liable to a penalty not exceeding *one hundred* pounds: Provided that, if on the hearing of any information for a penalty under this section it shall appear that the defendant or person accused acted under the reasonable belief that he was owner of such stock, such information shall be dismissed. Penalty for branding stock without authority, or defacing brands.

12. The mark or impression of any registered brand upon any stock shall be *prima facie* evidence of the ownership of the said stock by the person in whose name such brand shall be registered in the register of the district. Brand evidence of ownership.

13. Any stockowner having duly registered a brand may, by writing addressed to the Registrar of Brands for the district, transfer his right to such brand to any other stockowner, or may relinquish his right to the said brand, and, upon the due receipt of such writing by such Registrar, he shall forthwith cause the registry of such brand in the general register of brands for the district to be transferred or cancelled, as the case may be; and after such cancellation it shall be lawful for any other stockowner to register such brand in his own name in the office of the Registrar, and to cause his stock to be branded therewith, as if such brand had not been previously registered: Provided always that in case it shall be proved to the satisfaction of the Registrar that any brand registered by him has not been used by the owner thereof or by his authority for at least twelve months previously, such brand shall be considered to have been Brand may be abandoned.

relinquished, and shall be treated accordingly, and it shall be the duty of such Registrar to publicly notify that such brand has been so relinquished.

Cattle and sheep to be branded.

14. All cattle above the age of six months, and all sheep above the age of six months, shall be branded with the registered brand of the owner, which shall be renewed from time to time so that the same shall be at all times legible; and for every such head of cattle or sheep not so branded the owner thereof shall be liable to a penalty not exceeding *ten* pounds.

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Cattle need not be branded.

15. Nothing in this Act shall be construed to oblige any one to brand any cattle, so long as they are depastured upon land owned or occupied by him.

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MISCELLANEOUS.

Penalty for removing ears of animals.

16. If any person shall wilfully cut off the edges of the sides or more than one-third part of the whole ear measuring from the tip thereof of any cattle, sheep, or horse, whether belonging to himself or to any other person, he shall be liable to a penalty of not more than *twenty* pounds for each head of cattle and for each sheep or horse in respect of which such offence has been committed.

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Fees recoverable summarily.

17. All fees, fines, and penalties imposed by this Act shall be recoverable in a summary manner before any two Justices of the Peace, and shall be paid into the Public Account, saving as to the fees accruing within a district as herein defined, which shall be paid to the county fund of the district wherein the same accrued or been recovered or received.

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Administration of Act outside counties.

18. All powers, duties, and functions granted by this Act to the Council of any county shall, in respect of all parts of the colony outside of the limits of a district as herein defined, be vested in and exercised by the Governor, and with respect to all such places this Act shall be read as if the word "Governor" were substituted for the words "Council of the county" or "Council" wherever the same respectively occur.

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Schedule.

SCHEDULE.

ACTS AND ORDINANCES REPEALED.

(1.) *Act of the General Assembly.*

1876, No. 62.—The Diseased Sheep Act, 1876 (so much of Part II. and of the Second Schedule as relates to Brands and Branding).

(2.) *Acts of the Province of Auckland.*

Sess. XIV., No. 3.—The Cattle Branding Repeal Act, 1862.

Sess. XXVI., No. 11.—The Registration of Brands Act, 1871.

Sess. XXVII., No. 4.—The Registration of Brands Act 1871 Amendment Act, 1871.

(3.) *Ordinances of the Province of Taranaki.*

Sess. XIII., No. 3.—The Branding of Cattle Ordinance, 1865.

Sess. XV., No. 2.—The Branding of Cattle Ordinance, 1866.

(4.) *Acts of the Province of Wellington.*

Sess. IV., 1857, No. 13.—An Act to provide for the Branding of Cattle, and the Destruction or other Disposal of Wild Cattle.

Sess. XI., 1864, No. 5.—An Act to provide for the Branding of Horses.

(5.) *Act of the Province of Nelson.*

Sess. XXV., No. 8.—The Cattle Branding Act, 1874.

(6.) *Act of the Province of Marlborough.*

Sess. II., No. 1.—The Cattle Branding Act, 1861.

(7.) *Ordinance of the Province of Otago.*

Sess. XXXIV., No. 464.—The Cattle and Sheep Ordinance, 1875 (so much thereof as relates to Brands and Branding).

(8.) *Ordinance of the Province of Southland.*

Sess. III., No. 24.—The Cattle Branding Ordinance, 1862.