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This Public Bill originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council,
27th September, 1878.*

Hon. Colonel Whitmore.

Impounding.

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A BILL INTITULED

Title. AN ACT relating to Trespass and the Impounding of Cattle, and to regulate the Management of Public Pounds.

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

Short Title.

1. The Short Title of this Act shall be “The Impounding Act, 1878;” and it shall take effect on the first day of January, in the year one thousand eight hundred and seventy-nine. 5

Interpretation.

2. 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,— 10

“Cattle” includes any horse, mare, gelding, colt, filly, or foal, and any bull, cow, ox, steer, heifer, or calf, and any ram, ewe, sheep, or lamb, and any ass, mule, goat, or pig.

“Sheep” includes any ram, ewe, wether, or lamb.

A suckling of any species, under six months old, and its mother, are, for the purposes of this Act, to be considered as one animal. 15

“Poultry” means and includes turkeys, geese, ducks, and fowls.

“Poundkeeper” means the person for the time being in the authorized charge of any pound. 20

“Ranger” includes any ranger of Crown lands, or appointed under any Act of the General Assembly or of any provincial legislature.

“Owner of cattle” includes the person having the charge of such cattle or the management thereof. 25

“Occupier” of land includes any person occupying any Crown lands under any lease, license, or other authority granted by or on behalf of the Crown, and also any owner of land, and any tenant, agent, bailiff, or overseer of any owner or occupier. 30

“Road” includes a street, a public highway, whether carriage-way, bridle-path, or footpath, and all bridges and culverts, and also by-ways and cross-roads.

“Borough” includes every city, town, or borough incorporated under any enactment of the General Assembly or of any provincial legislature. 35

“District” includes every county wherein the whole of “The Counties Act, 1876,” is in force, and every borough as herein defined.

“Locality” means any county in which the whole of “The Counties Act, 1876,” is not in operation. 40

“Council” includes County Council, Municipal Council, and the Town Board or other governing body of any borough as herein described.

“Local governing body” means the Council, Board, Trustees, or other body having the charge of roads in any county, borough, road or highway district, or the Trustees of any river conservators’ district. 45

“Trespass rates” means the rates specified in the first part of the Second Schedule to this Act. 50

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“Public notification,” “public notice,” “publicly notify,” respectively mean the insertion of a notice in one or more newspapers having general circulation in the district affected by the matter contained in such notification or notice.

“Fence” and “fenced land” respectively mean a sufficient fence, and land, enclosed within such a fence according to the meaning of any Act now or hereafter to be in force relating to fencing.

“Crown lands” includes all lands of the Crown, as well as lands heretofore designated Crown lands and confiscated lands.

3. The several enactments enumerated in the *Fifth* Schedule hereto annexed are hereby repealed, subject to the limitations in the said Schedule mentioned, but this repeal shall not affect—

- (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; and such legal proceeding may be carried on and completed as if this Act had not passed.

GENERAL ADMINISTRATION OF ACT.

4. The Council of every county and borough, as herein respectively defined, shall, within the boundary of the limits of such county or borough, carry into execution the several provisions of this Act in relation to the establishing and maintenance of pounds, and the appointment and removal of poundkeepers.

Powers to corporate Councils to be exercised.

POUNDS AND POUNDKEEPERS.

5. The Council of any district, from time to time may, by public notification, appoint places to be public pounds, and any pound may abolish; and from time to time may, by similar notification, appoint, suspend, or remove poundkeepers.

Appointment of public pounds and poundkeepers.

All pounds existing and persons who are poundkeepers at the commencement of this Act shall be deemed to be pounds and poundkeepers respectively within the meaning of this Act.

6. A copy of any public notification of the establishment or abolition of any pound, or of the appointment, suspension, or removal of any poundkeeper, or of any matter or thing required to be done by or under this Act, shall be *prima facie* evidence that such pound was duly established or abolished, and that such poundkeeper was duly appointed, suspended, or removed, and that such matter or thing has been duly done and performed.

Notification to be evidence of appointment, &c.

7. Every public pound shall be properly fenced and enclosed, and adapted, so far as may be, for keeping cattle infected with any contagious or infectious disease separate and apart from other cattle, and shall be kept in good order and cleaned by the keeper thereof.

Pounds to be fenced and kept clean.

If the keeper of any public pound shall not keep the same clean, or shall knowingly keep or permit to be kept any cattle infected with any contagious or infectious disease in the same enclosure with cattle not so infected, or shall not keep the cattle which shall from time to time be impounded therein supplied with a sufficiency of wholesome food and water each day, between the hours of six and nine o'clock in the forenoon, and the hours of four and six o'clock in the afternoon, every such poundkeeper shall, in respect of each separate case of neglect, be deemed to have committed a separate offence against the provisions of this Act.

No ranger to be poundkeeper.

8. No person who is licensed as a publican nor any person holding the office of ranger shall at the same time fill the situation of poundkeeper.

IMPOUNDING OF CATTLE.

No damages in respect of unfenced freehold lands.

9. Every occupier of land trespassed on by cattle may impound the same, but except as is hereinafter mentioned in respect of pigs, or goats, no owner or occupier of any unfenced freehold land shall be entitled to demand or recover any damages whatever by reason of the trespass thereon of any cattle, except fees for driving or for giving notice of the detention of such cattle, as provided in the Second Schedule hereto.

Mode of impounding cattle trespassing.

10. No cattle shall be impounded under the provisions of this Act except in the nearest accessible pound to the place where such cattle were found trespassing, and the person by whom or by whose order any cattle are sent to the pound shall specify in writing to the poundkeeper the description, number, brands or apparent brands, and marks of such cattle, the place where they were found trespassing, and if such cattle shall have been impounded for trespass on fenced land then the amount of damage claimed for such trespass according to the rates fixed by this Act, and, so far as the person impounding can state the same, the name of the owner of such cattle; and such animals may be either led, conveyed, or driven to such pound.

Party aggrieved may impound on his own land cattle trespassing.

11. The occupier of any land trespassed on by cattle, the owner whereof shall be known to him, may impound and detain the same in any convenient place upon his own land; and in such case he shall, within twenty-four hours of such impounding, give to the owner of the said cattle, either personally or by leaving the same at his usual or last known place of abode, the like written description of particulars as is hereinbefore required to be given to the keeper of any public pound by any person sending cattle thereto:

Provided that he shall feed and maintain the cattle when so impounded, and shall not keep them impounded longer than two whole days of twenty-four hours each, and at the expiration of that time, if not sooner released by payment of the rates which by this Act are chargeable by the keeper of the nearest pound for feeding and maintaining such cattle, he shall lead, convey, or drive the same cattle to such pound.

Or may restore cattle to the owner.

12. The occupier of any land trespassed on by cattle may restore the same to the owner thereof, and in such case such occupier may demand, and in case of non-payment recover in a summary way before any two Justices from the owner of such cattle, together with the charges of driving (if any) such cattle to the residence of the owner, the amount of any trespass rates that would be payable under the Second Schedule hereto if such cattle were impounded in respect of the trespass thereof.

Trespass by pigs or goats.

13. The occupier of any land trespassed on by pigs or goats may recover from the owner of such pigs or goats damages at the rate specified in the *Second* Schedule hereto; and if any pigs or goats the property of the same owner, shall trespass on such land within the space of three months after the first trespass, such occupier may recover from the owner thereof, in respect of every separate time they shall so trespass, damages at double the rate specified in the said *Second* Schedule.

Figs, goats, or poultry trespassing may be destroyed.

The occupier of any fenced land in artificial grass or under cultivation may destroy any pigs, goats, or poultry found trespassing upon such land; and the occupier so destroying the same shall within twenty-four hours send in writing a description of the animals so destroyed, and of the place where destroyed, to the nearest police-station, under a penalty of not exceeding *ten pounds*: Provided that

it shall not be necessary to send such description in the case of wild pigs so destroyed.

14. The occupier of any land trespassed upon by cattle, whose fences may have been broken by such cattle, may, when the amount claimed for the repair of such fence does not exceed twenty shillings, demand and charge the same as a trespass rate.

Occupier whose fences injured may recover, &c.

15. If any cattle shall be at any time of the day or night found straying in or lying about or tethered in any road, or so immediately adjoining thereto as to obstruct the same, it shall be lawful for any person to drive such cattle to the nearest pound, and the owner thereof shall be liable to a penalty not exceeding *forty shillings* for every head of such cattle :

Cattle wandering at large on roads, &c.

Provided that if any cattle shall be found so straying or tethered between sunset and sunrise, it shall be lawful for any constable, or occupier of land adjoining such road, or other person authorized by the local governing body, to place any such cattle in any stable, yard, or enclosure during the night, and remove the same as soon as conveniently may be after sunrise to the nearest pound ; and any expenses, not exceeding two shillings per head for the first twenty head, and one shilling and sixpence per head if over that number, incurred by any constable or other person in so doing, shall be paid by the owner of such cattle, over and above any other charges incident to the impounding of any such cattle.

If by night, may be secured till daylight.

This section shall not apply to cattle owned by any licensee of Crown lands if such cattle are depasturing on roads within his run over which he has a right of pasturage.

16. If any bull or entire horse or entire ass or entire mule, respectively above the age of nine months, or any ram or boar, respectively above the age of four months, shall be found wandering at large on land not being in the lawful occupation of the owner of such animal, or upon any street, thoroughfare, highway, byway, or other public place, it shall be lawful for any person thereupon to impound the same, and the owner thereof shall be liable to a penalty not less than *two pounds* nor exceeding *twenty pounds*, in addition to any other penalty imposed by this Act in respect of cattle wandering at large.

Entire animals wandering at large.

17. Every animal as aforesaid that has been only half-castrated, or that has been not perfectly castrated, shall for the purposes of this Act be deemed to be an entire animal.

Similar penalty in respect of rigs.

EXCESSIVE OR ACTUAL DAMAGES.

18. The owner of impounded cattle may give notice in writing to the poundkeeper that he intends to complain to a Justice against the person impounding such cattle, that such impounding was illegal under this Act, or that the rates demanded for the trespass of such cattle are excessive ; and upon receipt of such notice and payment of such rates, with the pound and other authorized fees and charges, the poundkeeper shall release such cattle and shall retain such trespass rates to abide the order of Justices as hereinafter provided.

If excessive damages claimed, owner may pay under protest.

19. Every such complaint shall be made within ten days after the giving of such notice in writing, and shall be heard and determined in a summary manner before any two or more Justices, who may dismiss the same, or may find that the cattle were not trespassing, or that such impounding was illegal under the Act, or that the rates demanded for the trespass of such cattle are excessive, and may make an order against the defendant for the amount of damages sustained by the owner in consequence of such illegal impounding or excessive demand, and for the amount of all pound and other authorized fees and charges paid by the owner to the poundkeeper as aforesaid, and such order shall be an authority to the poundkeeper to pay such owner such trespass rates so retained by him. And the said Justices may hear and deter-

Jurisdiction of two Justices in all matters arising out of impounding.

mine the said complaint, notwithstanding any question of title to the property or suggestion of right that may be involved therein.

Party aggrieved may sue for actual damages.

20. Every occupier of any fenced land trespassed upon may waive the trespass rates herein provided and claim in any competent court full satisfaction for any actual damage sustained by him in consequence of any trespass; but in any such case the cattle committing the trespass may be impounded in a public pound, or dealt with as provided in sections *eleven* and *twelve* of this Act, but such cattle shall not be detained in the pound until payment be made of such actual damages.

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ANIMALS TRESPASSING ON RAILWAYS.

Animals trespassing on railways may be shot.

21. It shall be lawful for the Minister of Public Works, by written authority to be issued by him for that purpose, to empower any person named therein to shoot or otherwise destroy any animal trespassing on any line or portion of any line of railway, in any case where such person shall think the public safety likely to be endangered, or the public traffic interrupted by such trespass, and such authority from time to time to revoke.

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Authority to be publicly notified.

22. Every issue and revocation of any authority as aforesaid shall be publicly notified within every district to which any such authority extends.

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Persons shooting exempt from liability.

23. Any person empowered as aforesaid may lawfully shoot and otherwise destroy cattle trespassing on the railway described within the aforesaid written authority, and shall not be subject to any liability, civil or criminal, for doing so.

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Abuse of authority.

24. Any person who shall abuse the authority so given to him, or shall wilfully exceed the terms thereof, or shall in any way act contrary to the conditions and limitations therein specified, shall, in addition to any civil liability he may incur by such act, be liable to a fine not exceeding *ten* pounds, or to imprisonment, with or without hard labour, for a period not exceeding *twelve* months, or both.

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Owner of animal not exempt from liability for trespass.

25. Nothing in the *four* previous sections contained shall controul or affect any provisions of any Acts relating to railways, nor exempt the owner of any animal from any penalty he may have become liable to by reason of the trespass of such animal on the railway.

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STRAY UNBRANDED AND WILD CATTLE.

Unbranded wild cattle to belong to Crown.

26. All unbranded cattle above the age of six months, or apparently above that age, which shall at any time be depasturing on any Crown lands, and which shall have no reputed or apparent owner, shall be and shall be deemed and taken to be the property of Her Majesty; and it shall be lawful for the Commissioner of Crown Lands of the district wherein such cattle may be depasturing to cause the same to be sold and disposed of in such manner as the Governor may direct.

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Wild cattle on enclosed lands may be destroyed after notice to remove.

27. If any cattle shall be depasturing on any private lands, and cannot be impounded by reason of their wildness, the keeper of the nearest pound shall, on the request of the owner or occupier of any of such lands and the tender of the cost and expenses of the advertisement, forthwith cause a public notice to be advertised twice weekly for not less than three consecutive weeks, calling upon the owner of such cattle forthwith to remove the same from the lands where they are depasturing, and warning such last-named owner that, if the said cattle be not so removed within four weeks from the date of the first of such notices, they will be sold at the expiration of the said four weeks by public auction in the same manner as if they had been impounded cattle sold by reason of not being released.

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The poundkeeper shall sell such cattle accordingly, but on the express stipulation that they are to be removed forthwith from the lands

where they are depasturing, and every such sale shall in all respects be a pound sale, and the proceeds shall be applied accordingly.

Purchasers of wild cattle may pursue and take the same.

28. In either of the cases mentioned in the two last-foregoing sections the purchaser of such cattle, on obtaining a written authority for that purpose from the Commissioner of Crown Lands or the pound-keeper, as the case may be, shall be at liberty, within such time and in such manner as may be mentioned in such authority, with necessary and proper assistance to take possession of such cattle, and for that purpose to enter upon any Crown lands or private lands, as the case may be, where the same may be depasturing, and such purchaser shall be at liberty to destroy any of such cattle that may by their wildness be preventing or impeding him in the recovery of the remainder thereof :

If any such purchaser shall use dogs in the removal or mustering of any such cattle, he shall be responsible and liable in respect of any damage done by such dogs to any cattle or sheep other than the proper cattle that are so being removed or mustered.

29. It shall not be lawful for any person to drive any cattle, except sheep, from the land or out of the herds of any other person, without first giving not less than twenty-four hours' notice in writing to such last-mentioned person, his overseer or person in charge, of the time he intends to drive away such cattle.

Stray cattle not to be taken away without notice to owner of land where they are.

Any person who shall fail to give such notice as hereby required, or who shall enter upon any other person's lands for the purpose of driving any such cattle, or shall attempt to drive any such cattle without giving such notice, shall be guilty of an offence under this Act, and shall be liable to the same penalties as are herein provided in respect of similar offences.

POUNDAGE FEES AND TRESPASS CHARGES.

30. It shall be lawful for every poundkeeper to charge and receive for cattle impounded under this Act the several poundage fees, sustenance rates, trespass rates, and driving charges specified respectively in the *First* and *Second* Schedules hereto.

Poundage fees, rates, and charges.

The person impounding cattle shall not be liable to pay to the poundkeeper any fees or charges in respect of the same.

Party impounding not liable for fees.

31. All fees, rates, and charges not otherwise appropriated by this Act, shall form part of the funds of the Council of the district wherein such pound is situate; but in cases where the poundkeeper is paid by fees, he shall be entitled to retain for his own use, out of the whole amount of fees received by him, so much as shall from time to time be prescribed in that behalf by the Council.

Fees to go to Council of district.

40. 32. The owner of cattle impounded for trespass shall pay the trespass rates specified in the *Second* Schedule hereto, according to the description of cattle trespassing, and according to the description of land or crop contained in such Schedule, regard being had as to whether the land trespassed on was or was not fenced.

Rates for trespass.

45. The owner of cattle impounded shall also be liable to pay the rates specified in the *Second* Schedule hereto, as fees for giving or sending notices, or as charges for leading or driving such cattle to the pound.

For driving to pound.

33. The sum to be charged for trespass rates by cattle upon any one occasion shall in no case exceed the sum of *five* pounds :

Maximum ordinary rates.

50. Provided that in respect of the trespass of any entire horse, ass, or mule, any bull, or any ram, or boar, there shall be payable as a trespass rate, in addition to any other sum fixed under the provisions of this Act by way of trespass rate, any sum not exceeding *ten* pounds, to be recovered in a summary way.

Increased rates for entire animals.

55. 34. All trespass rates payable in respect of impounded cattle, except the rate specified in the proviso to the *thirty-third* section, shall be payable in the first instance to the poundkeeper, who shall hold the same, subject to the provisions of this Act, and shall pay the same to the person entitled thereto.

Trespass rates to be paid to poundkeeper.

Cattle to be released before pouncing if trespass rates tendered.

35. Whenever any cattle have been seized for trespass by any occupier for the purpose of impounding the same, if the owner of the cattle or some person on his behalf pay or tender to the person seizing or having charge of such cattle before the same have been actually impounded the trespass rate and driving rate provided under this Act, the person having charge of such cattle shall forthwith deliver up the same to the owner or the person tendering on his behalf such trespass rate and driving rate. 5

Poundkeeper to keep pound-book and copy of Act.

36. Every poundkeeper shall keep a pound-book in the form in the *Third* Schedule of this Act, and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible, and shall not make any entry after any dispute as to the subject-matter of such entry shall have arisen; and the said pound-book and a copy of this Act, which the poundkeeper is hereby required to keep, shall at all reasonable times be open to the inspection of any Justice of the Peace, Registrar of Brands, Inspector of Slaughter-houses or Sheep, ranger, or constable free of charge, and of any other person upon payment of the sum of *one shilling*. 10 15

Table of fees to be posted in a conspicuous part of pound.

37. On the gate or some other conspicuous part of every pound there shall be erected and maintained a board, having legibly painted thereon, in letters and figures not less than one inch in length, and to be either white letters on black ground or black letters on a white ground, the name of the poundkeeper and a table of all fees, charges, and rates which he is authorized by this Act to receive. 20

Notice to be given of cattle in pound.

38. Whenever any cattle are impounded the poundkeeper shall forthwith post a written notice on the gate or other conspicuous part of the pound, giving the number, particulars, brands or apparent brands, and marks of the cattle so impounded; and such notice shall remain so posted until such cattle have been claimed or disposed of in due course of law. 25 30

It shall not be necessary to give any other or further notice in respect of cattle impounded when the same shall consist of sheep, goats, pigs, or calves, and be not more than two in number.

Duty and responsibility of pound-keeper.

39. Every poundkeeper shall receive and detain in his custody any cattle lodged in such pound until the trespass rates for which the same were impounded and all lawful fees and charges shall be paid, or until he shall receive notice of the decision or order of Justices as hereinafter provided, or receive an order in writing, signed by the person impounding such cattle, for their release, without payment of the trespass rates. 35 40

Pounds not to be opened by night.

No poundkeeper shall be required to deliver any cattle except between the hours of sunrise and sunset; and no poundkeeper shall, except as herein specially provided, receive or allow any cattle to be impounded between the hours of sunset and sunrise unless the pound be distant more than five miles from the place where the cattle were trespassing and the cattle have been driven that distance on the day they are brought to the pound. 45

Poundkeepers to give notice to owners of cattle impounded.

40. When any cattle are impounded, the poundkeeper shall forthwith, in case such cattle are branded or marked with any registered brand or mark, or when the owner is known to the poundkeeper, deliver at or post to the address of the owner or person in whose name such brands or marks are registered, a notice in the form in the *Fourth* Schedule to this Act, and shall insert such notice in one or more newspapers published in the district. 50

Cattle not released to be sold at auction.

41. When cattle shall not have been released from the pound within fourteen days in the case of neat cattle, horses, asses, or mules, and seven days in the case of sheep, pigs, or goats, after the giving or inserting the notice in the last section mentioned, the same shall be sold by public auction, and such sale shall be made on the first day next after the expiration of such fourteen or seven days respectively, 60

which shall be for the time being appointed by the Council of the district, by public notice for the holding of pound sales.

At every such sale the poundkeeper shall act as auctioneer, and such sale shall be held at the pound, and shall commence at the hour of noon, and not more than one head of great cattle, nor more than ten sheep or goats, nor more than five pigs shall be sold in one lot, and the poundkeeper shall neither in person nor by his agent purchase any cattle at any such sale or have any interest of any kind in cattle so purchased.

Poundkeeper to act as auctioneer.

42. If any cattle impounded are not of sufficient value to defray the poundage and sustenance fees of keeping the same during the time by this Act prescribed, it shall be lawful for any Justice of the Peace, not interested in the matter, to authorize the sale of such cattle on a day earlier than hereinbefore directed, and notice of such sale shall, previous to such sale, be given by the poundkeeper to the owner of such cattle personally, if possible, or left at his usual or last known place of abode, or by advertisement, as the case may require.

Sale may be earlier when cattle not worth charges.

43. When any cattle have been offered for sale at any pound sale, and no bid has been made at such sale for such cattle, and the same are not worth the sustenance fees that would be payable in respect thereof during the interval between such sale and the next day appointed for holding a sale at such pound, the poundkeeper may cause such cattle to be destroyed, and dispose of such carcasses in such way as he may think best, and any proceeds of any sale of such carcasses or any portion thereof shall be deemed the proceeds of the sale of impounded cattle.

Unsold cattle not worth keep may be destroyed.

44. The proceeds of all sales of impounded cattle sold under the provisions of this Act shall be applicable in payment—Firstly, of any costs and charges attending such sale; secondly, of all sustenance fees; thirdly, of fees and charges payable into the Council fund of any district; and fourthly, to the impounder of such cattle, of rates due to him for the trespass thereof, and the charges for driving the same to the pound; and the residue, if any, shall be payable to the owner of such cattle; but if such rates or residue be not claimed by any person entitled thereto within one year after such sale, the same shall form part of the Council fund of the district within which such pound is situated.

Application of proceeds of pound sales.

45. If, within fourteen days after any pound sale, any person entitled to any trespass rates or to any residue of the proceeds of such sale shall not have claimed payment thereof, such poundkeeper shall pay the amount of such trespass rates or residue into the Council fund of such district, but such payment shall not prejudice the right of any person to the amount so paid or any part thereof.

Payment of residue or unclaimed trespass rates.

46. No purchaser of cattle sold under the provisions of this Act shall be bound to prove that such sale was regular, or that the terms and conditions required by this Act were complied with, or be affected by any default or irregularity in respect of such sale; and no poundkeeper shall be liable for any penalties for selling by auction as herein provided.

Purchasers of cattle not bound to prove regularity of sale.

OFFENCES AND PENALTIES, &c.

47. If any poundkeeper commit any of the next following offences, he shall on conviction forfeit and pay a penalty not exceeding fifty pounds, or be imprisoned for any period not exceeding six months, or both, in the discretion of the Justices before whom the complaint shall be heard:—

Penalty for offences by poundkeeper.

- (1.) Illegally impounding or assisting or inciting any person illegally to impound any cattle:

- (2.) Purchasing, in person or by his agent, cattle sold by auction at a pound of which he is at the time of such sale the poundkeeper :
- (3.) Demanding or receiving any fees, charges, rates, or other sums of money not authorized by or under this Act : 5
- (4.) Failing to pay over any money held by him under the provisions of this Act for any person after payment of the same has been formally and legally demanded by or on behalf of such person :
- (5.) Neglecting to provide sustenance for cattle impounded, or losing such cattle through wilful and culpable negligence, or using the same in any manner while so impounded, other than in manner hereinafter authorized : 10
- (6.) Omitting or neglecting to keep books and to make entries therein as required by this Act, or wilfully making any incorrect or untrue entry in such books : 15
- (7.) Or failing to comply with, or committing any offence against, the provisions of this Act in respect of which no penalty is herein specifically provided.

Burden of proof in certain cases on poundkeeper.

48. When any poundkeeper is charged with neglecting to provide sustenance for cattle impounded, the burden of proving that proper sustenance was provided for such cattle shall be on such poundkeeper ; and when any poundkeeper is charged with losing any impounded cattle through wilful and culpable negligence, if it be proved that any cattle impounded were in the custody of such poundkeeper, such cattle shall be deemed to have been so lost unless such poundkeeper shall prove the contrary. 20 25

Penalty for offences by other persons.

49. If any other person commit any of the next following offences, he shall on conviction forfeit and pay a penalty not exceeding *fifty* pounds, or be imprisoned for any period not exceeding six months, or both, in the discretion of the Justices before whom the complaint shall be heard :— 30

- (1.) Rescuing or attempting to rescue or interfering with cattle impounded or seized for the purpose of being impounded :
- (2.) Destroying or injuring or attempting to destroy or injure any pound, or any lock or bolt belonging thereto, whether any cattle shall be impounded therein or not : 35
- (3.) Illegally impounding any cattle :
- (4.) Removing cattle from any one place to any other place for the purpose of impounding such cattle from such last-mentioned place : 40
- (5.) Refusing to disclose or stating untruly the name and address of the owner of any cattle of which he is in charge or assisting in driving, or the name of the agent or overseer of such owner, on demand by any constable or by or on behalf of any person upon whose land such cattle are trespassing : 45
- (6.) Driving cattle not his own without proper authority from the land of any other person without previous notice to such person, his agent or overseer : 50
- (7.) Driving cattle from any land not in his occupation on to the land of any other person or on to any public road.
- (8.) Wilfully leaving open any gate or slip-panel, or making a gap in any fence, for the purpose of permitting or causing any cattle to trespass, or otherwise wilfully causing any cattle to trespass : 55
- (9.) Failing to comply with, or committing any offence against, the provisions of this Act in respect of which no penalty is herein specifically provided.

50. Any person who shall, without the authority or consent of the owner thereof, work or use any horse, mare, gelding, ass, mule, bull, bullock, steer, or heifer, shall for each such offence forfeit and pay a penalty of not less than *one* pound and not more than *twenty* pounds, together with such sum as the Justices, at the hearing of the complaint, shall adjudge just and reasonable, to be paid to the prosecutor or complainant for his compensation and costs in that behalf.

Party using cattle without consent of owner.

51. Except where otherwise provided, all penalties recovered under this Act, incurred within the boundary of any district, shall be paid to the Council or Borough Fund of such district.

Distribution of penalties.

52. All penalties incurred under this Act may be recovered in a summary manner.

Recovery of penalties.

SPECIAL ADMINISTRATION.

53. In all parts of New Zealand, exclusive of boroughs, in which the whole of "The Counties Act, 1876," is not in operation (herein called "localities"), the administration of this Act shall be regulated by the Governor in Council, who may exclude any of such parts of New Zealand from the operation of this Act altogether, or from the operation of particular provisions thereof, as from time to time may seem fitting.

In localities administration of Act by Governor in Council.

54. All the foregoing provisions of this Act shall be read in respect of all localities aforesaid, as if the words "Road Board or Governor in Council," as the case may be, as described in the last-foregoing section, had been inserted in this Act in lieu of the word "Council" wherever the same occurs: And the Road Board or Governor in Council aforesaid shall have and may exercise all the powers, duties, and functions in respect of any locality as the Council of a county or borough respectively have within such county or borough under the provisions of this Act, or any of them.

Powers of Governor in localities.

55. All expenses and costs attending the administration of this Act in all such localities as aforesaid, shall be defrayed out of moneys to be appropriated from time to time by the General Assembly or by the Road Board for that purpose; and all license fees, fines, penalties, and other moneys payable under this Act and received in any such above-mentioned localities, shall be paid by the persons receiving the same into the Public Account, or the District Fund of the Road Board, as the case may be.

With regard to expenses and moneys received in localities.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

POUNDKEEPERS' FEES FOR CATTLE, OTHER THAN SUCKLINGS UNDER THE AGE OF SIX MONTHS, AND FOR THE SUSTENANCE THEREOF WHILST IMPOUNDED.

The charges for food to be paid for each day or part of a day during which the animal is supplied with food and water by the poundkeeper. No charge to be made for the sustenance of suckling animals under the age of six months.

	Fees for Poundage.		Amount to be charged Daily for Sustenance.	
	s.	d.	s.	d.
For every entire horse above the age of six months ...	2	6	...	2 6
For every horse, mare, gelding, colt, filly, or foal ...	1	0	...	2 6
For every mule or ass ...	1	0	...	1 6
For every bull above the age of six months ...	2	6	...	1 6
For every ox, cow, steer, heifer, or calf of the first ten ...	0	6	}	...
" " " " " the next ten ...	0	4		
" " " " " the next thirty ...	0	3		
" " " " " all others above fifty ...	0	2		
For every ram above the age of six months ...	0	6	}	...
For every ewe, wether, or lamb of the first twenty ...	0	2		
" " " the next thirty ...	0	1½		
" " " the next fifty ...	0	1		
" " " all others above one hundred ...	0	0½		
For every goat ...	1	0	...	0 2
For every boar, sow, or pig ...	1	0	...	0 6

POUNDKEEPERS' FEES FOR GIVING NOTICES.

	s.	d.
For writing and delivery or sending by post any notice	2 6
For inserting any notice in one or more newspapers, in addition to the actual cost of such insertion	2 6

SECOND SCHEDULE.

TABLE OF TRESPASS RATES TO BE CHARGED FOR TRESPASS OF CATTLE.

Description of Cattle.	Trespass in unfenced land.	Trespass in any fenced paddock or meadow of grass or stubble.	Trespass in any fenced land having thereon any growing crop, or from which the crop has not been removed, or in any fenced cemetery.
	£ s. d.	£ s. d.	£ s. d.
For every horse, mare, gelding, filly, mule, ass, bull, ox, steer, heifer, cow, calf, colt, or foal	0 1 0	0 2 6
For every ram, ewe, sheep, wether, or lamb	0 0 3	0 0 6
For every goat ...	0 1 0	0 3 0	0 5 0
For every boar, sow, or pig ...	0 1 0	0 3 0	0 5 0

CHARGES FOR LEADING OR DRIVING CATTLE TO POUND.

	s.	d.
For any number of cattle of any sort whatsoever not exceeding twenty-five in number, for every mile or fractional part of a mile from the residence of the person driving such cattle to the residence of the owner of the same, or to the pound	1 0
For any number exceeding twenty-five, per mile	2 0

Notices.

For giving notice of the detention of cattle, for every mile or part of a mile exceeding one furlong from the residence of the person giving such notice to the residence of the owner of the cattle	1 0
Provided that in no case shall the charge for so driving or for giving notice exceed the sum of two pounds.		

(8.) *Acts of the Province of Nelson.*

- Sess. VIII., No. 5.—The Impounding Act, 1861.
 Sess. XVIII., No. 4.—The Cattle Trespass Act, 1868.
 Sess. XXIII., 1873, No. 2.—An Act to Amend the Impounding Act, 1861.
 Sess. XXIII., 1873, No. 3.—An Act to Amend the Cattle Trespass Act.

(9.) *Acts of the Province of Marlborough.*

- Sess. XVI., No. 2.—The Cattle Trespass Act, 1867.

(10.) *Ordinance of the Province of Canterbury.*

- Sess. XXXVII., No. 13.—The Canterbury Trespass of Cattle Ordinance, 1872.

(11.) *Ordinances of the Province of Westland.*

- Sess. II., No. 3.—The Trespass and Impounding Ordinance, 1874.
 Sess. III., No. 5.—The Trespass and Impounding Ordinance Amendment Ordinance, 1875.

(12.) *Ordinances of the Province of Otago.*

- Sess. V., No. 16.—The Towns Cattle Trespass Ordinance, 1856.
 Sess. VII., No. 27.—The Cattle Trespass Ordinance, 1858.
 Sess. XIX., No. 165.—The Pig and Poultry Nuisance Ordinance, 1864.
 Sess. XXIV., No. 272.—The Cattle Trespass Ordinance 1858 Amendment Ordinance, 1868.
 Sess. XXIV., No. 273.—The Goat Nuisance Ordinance, 1868.
 Sess. XXVI., No. 295.—The Cattle Trespass Ordinances Amendment Ordinance, 1869.
 Sess. XXIX., No. 342.—The Goat Nuisance Ordinance, 1871.
 Sess. XXX., No. 365.—The Impounding Ordinance, 1872.
 Sess. XXXII., No. 402.—The Impounding Ordinance Amendment Ordinance, 1873.

(13.) *Ordinances of the Province of Southland.*

- Sess. VI., No. 53.—The Pig and Poultry Nuisance Ordinance, 1864.
 Sess. XX., No. 7.—The Cattle Trespass Ordinance 1866 Amendment Ordinance, 1868.