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[This Bill is a reprint, for the most part, of the Bill as passed by the Legislative Council, and a Select Committee of the House of Representatives, in 1880.]

Hon. Mr. Dick.

IMPOUNDING.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none">1. Short Title.2. Interpretation.3. Parts of districts may be excluded from operation of Act. <p>TRESPASS BY AND IMPOUNDING OF CATTLE.</p> <ol style="list-style-type: none">4. No damages in respect of unfenced freehold lands.5. Occupier of fenced land may sue for trespass rates or actual damages.6. Increased rates for entire animals.7. If illegal or excessive damages claimed, owner may pay under protest.8. Jurisdiction of two Justices in all matters arising out of impounding.9. Mode of impounding cattle trespassing.10. Occupier may impound on his own land cattle trespassing.11. Or may restore cattle to the owner.12. Trespass by pigs or goats. Pigs, goats, or poultry trespassing may be destroyed. Carcasses to be buried.13. Occupier whose fences injured may recover, &c.14. Cattle wandering at large on roads, &c. If by night, may be secured till daylight.15. Penalty for entire animals wandering at large.16. Similar penalty in respect of rigs. <p>STRAY UNBRANDED OR WILD CATTLE.</p> <ol style="list-style-type: none">17. Unbranded wild cattle to belong to Crown.18. Disposal of wild cattle on enclosed lands.19. Purchasers of wild cattle may pursue and take the same.20. Stray cattle not to be taken away without notice to owner of land where they are. <p>POUNDAGE FEES AND TRESPASS CHARGES.</p> <ol style="list-style-type: none">21. Poundage fees, rates, and charges. Party impounding not liable for fees.22. Fees to go to District Fund.23. Trespass rates. Driving fees.24. Trespass rates to be paid to poundkeeper.25. Cattle to be released before pounding if trespass and driving rates tendered. | <p>POUNDS AND POUNDKEEPERS.</p> <ol style="list-style-type: none">26. Appointment of public pounds and poundkeepers.27. No pound to be notified unless fenced and provided with shelter, &c.28. Notification to be evidence of appointment, &c. <p>DUTIES OF POUNDKEEPERS.</p> <ol style="list-style-type: none">29. Poundkeeper to keep pound clean and in good order.30. Poundkeeper to keep pound-book and copy of Act.31. Table of fees to be posted in a conspicuous part of pound.32. Duty and responsibility of poundkeeper. Pounds not to be opened by night.33. Notice of impounded cattle to be affixed on pound.34. Poundkeepers to send notice to owners of cattle impounded, and to advertise same.35. Cattle not released to be sold at auction.36. Justice may authorize suffering animals to be destroyed, or earlier sale when cattle not worth charges. <p>POUND SALES.</p> <ol style="list-style-type: none">37. Pound sales. Poundkeeper to act as auctioneer.38. Unsold cattle not worth keep may be destroyed.39. Application of proceeds of pound sales.40. Payment of residue or unclaimed trespass rates.41. Purchasers of cattle not bound to prove regularity of sale. <p>OFFENCES AND PENALTIES, ETC.</p> <ol style="list-style-type: none">42. Penalty for illegal impounding of cattle, &c.43. Penalty for lesser offences.44. Burden of proof in certain cases on poundkeeper.45. Party using cattle without consent of owner.46. Penalties to be paid to Public Account.47. Fees to be paid to District Fund.48. Cost of administration of Act. <p>REPEALS.</p> <ol style="list-style-type: none">49. Repeals. Schedules. |
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A BILL INTITULED

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

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

No. 26—1.

Short Title.

1. The Short Title of this Act is "The Impounding Act, 1883." It shall come into force on the *first* day of *October*, in the year one thousand eight hundred and eighty-*three*.

Interpretation.

2. In this Act, if not inconsistent with the context,—

"Borough" includes every city, town, or borough constituted under any enactment of the General Assembly or of any provincial legislature relating to municipal corporations: 5

"Cattle" includes any horse, mare, gelding, colt, filly, or foal, any bull, cow, ox, steer, heifer, or calf, any ram, ewe, wether, or lamb, and any ass, mule, goat, boar, sow or other pig: 10

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

"County" means a county constituted under "The Counties Act, 1876": 15

"Crown lands" includes all lands of the Crown, as well as lands heretofore designated Crown lands and confiscated lands:

"District" means any portion of the colony under the administration of a local authority as herein defined: 20

"District Fund" means the fund of a district as herein defined, and where the Governor is the local authority it means the Consolidated Fund:

"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: 25

"Local authority" means and includes the Council or Board of any borough, town district, or road district as herein respectively defined, and in outlying districts means the county as herein defined, or where "The Counties Act, 1876," is not in force, and in all parts of the colony not included in any county or borough, means the Governor: 30

"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, and also any local authority: 35

"Owner of cattle" includes the person having the charge of such cattle or the management thereof: 40

"Poultry" includes turkeys, geese, ducks, and domestic fowls of all descriptions:

"Pound" or "public pound" means a public pound established under this Act:

"Poundkeeper" means the person for the time being in the authorized charge of any pound: 45

"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 50

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notice, or where there is no such newspaper, the affixing of such notice or placards in public places in the district :

“ Road ” includes a street, a public highway (whether carriage-way, bridle-path, or footpath), any public place where the public have general access, and all bridges and culverts, also by-ways and cross-roads and private streets, also river-beds and riparian lands in the occupation or under the control of any local authority :

“ Road district ” means any road district constituted under “ The Road Boards Act, 1882 ” :

“ Town District ” means a town district constituted under “ The Town Districts Act, 1881 ” :

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

3. The Governor may, by Proclamation, exclude any portion of a district from the operation of this Act, and may similarly extend such operation to any part of a district formerly excluded therefrom ; and may declare the time at which such operation shall take effect within the area to be so notified, and thereupon the Act shall take effect accordingly.

Parts of districts may be excluded from operation of Act.

TRESPASS BY AND IMPOUNDING OF CATTLE.

4. 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 occupier of any unfenced 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 *First Schedule* hereto.

No damages in respect of unfenced freshhold lands.

5. Every occupier of any fenced land trespassed upon by cattle may claim on account of such trespass the trespass rates provided in the *First Schedule* to this Act, or he may claim in any competent Court full satisfaction for any actual damage sustained by him in consequence of such trespass ; but in case he shall claim such actual damage, although the cattle committing the trespass may be impounded in a pound, or dealt with as provided in sections *ten* and *eleven* of this Act, such cattle shall not be detained in the pound until payment be made of such actual damages.

Occupier of fenced land may sue for trespass rates or actual damages.

6. In respect of the trespass of any entire horse, entire ass, or entire mule, any bull, or any ram, or boar, there shall be payable as a special 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.

7. 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 trespass rates or damages demanded for the trespass of such cattle are excessive ; and upon receipt of such notice, and, if trespass rates are demanded, on 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 illegal or excessive damages claimed, owner may pay under protest.

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

8. 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 trespass rates or damages 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 determine the said complaint, notwithstanding any question of title to the property or suggestion of right that may be involved therein.

Mode of impounding cattle trespassing.

9. Except as hereinafter provided, 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 the amount of damage claimed for such trespass according to the provisions of 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.

Occupier may impound on his own land cattle trespassing.

10. 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 pound by any person sending cattle thereto:

Such occupier aforesaid 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.

11. 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 such cattle to the residence of the owner, the amount of any trespass rates that would be payable under the *First* Schedule hereto if such cattle were impounded in respect of the trespass thereof.

Trespass by pigs or goats.

12. The occupier of any fenced or unfenced land trespassed on by pigs or goats may recover from the owner of such pigs or goats trespass rates at the rate specified in the *First* 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, trespass rates at double the rate specified in the said *First Schedule*.

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 any such animal shall within twenty-four hours send in writing a description of the animal or animals so destroyed, and of the place where destroyed, to the owner thereof, if he be known, and if unknown to the nearest police-station, under a penalty not exceeding *ten pounds*. It shall not be necessary to send such description in the case of wild pigs so destroyed.

In case the carcase of any such animal is not claimed and removed by the owner thereof within forty-eight hours after being destroyed as aforesaid, the occupier aforesaid shall bury such carcase, under a penalty not exceeding *ten pounds*.

13. 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 *forty shillings*, demand and charge the same as a trespass rate.

14. Any person authorized by the local authority having charge of the roads may impound any cattle which shall at any time of the day or night be found wandering at large, or straying in or lying about or tethered in any road fenced on both sides, or other place of public resort, or so immediately adjoining thereto as to obstruct the same, and the owner of such cattle shall be liable to a penalty not exceeding *forty shillings* for every head thereof over and above any other rates and charges incident to the impounding of any such cattle.

If any cattle shall be found so wandering, straying, lying about, or tethered between sunset and sunrise, any constable, or occupier of land adjoining such road, or other person authorized by the local authority, may 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 *one shilling* per head for the first twenty head, and *sixpence* per head for all 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 penalty, rates, and charges as aforesaid.

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; nor shall it apply to cattle for the grazing of which the owner shall have received the sanction of the local authority having control over the roads where such cattle may be depasturing, nor to cattle owned by any person in the lawful occupation of land if such cattle are depasturing on roads which are unfenced on either or both sides and are bounded on both sides by the land of such occupier.

15. Any person may impound 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, which shall be found wandering at large on land not being in the lawful occupation

Figs, goats, or poultry trespassing may be destroyed.

Carcases to be buried.

Occupier whose fences injured may recover, &c.

Cattle wandering at large on roads, &c.

If by night, may be secured till daylight.

Penalty for entire animals wandering at large.

of the owner of such animal, or upon any road or other place of public resort, and the owner of the animals so found wandering shall be liable to a penalty not exceeding *twenty* pounds, in addition to any other penalty, rates, and charges imposed by this Act in respect of cattle wandering at large.

Similar penalty in respect of pigs.

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16. Every male animal not castrated, or only half-castrated, shall for the purposes of this Act be deemed to be an entire animal.

STRAY UNBRANDED AND WILD CATTLE.

Unbranded wild cattle to belong to Crown.

17. 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. 10

The Commissioner of Crown Lands of the district wherein such cattle may be depasturing may cause the same to be sold and disposed of in such manner as he may think fit, or may authorize the killing of such cattle. 15

Disposal of wild cattle on enclosed lands.

18. 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 of any of such lands and the tender of the cost and expenses of the advertisement, forthwith cause a public notice to be advertised once a week for two consecutive weeks, calling upon the owner of such cattle forthwith to remove the same from the lands where they are depasturing, and warning such owner that, if the said cattle be not so removed within three weeks from the date of the first of such notices, they will be sold at the expiration of the said three weeks by public auction in the same manner as if they had been impounded cattle sold by reason of not being released. 20 25

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 that in default of such removal the occupier of such lands may destroy the same without being answerable for damage occasioned thereby. 30

Every such sale shall in all respects be a pound sale, and the proceeds shall be applied accordingly. 35

Purchasers of wild cattle may pursue and take the same.

19. 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 poundkeeper, 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: 45

Any such purchaser shall, in the removal or mustering of any such cattle, be responsible and liable in respect of any damage occurring through such removal to any cattle or sheep other than the proper cattle that are so being removed or mustered. 50

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20. No person shall drive any cattle 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.

Nothing in this section contained shall affect the provisions of any Act relating to the removal of sheep.

POUNDAGE FEES AND TRESPASS CHARGES.

21. Every poundkeeper may charge and receive for cattle impounded 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.

22. All fees, rates, and charges not otherwise appropriated by this Act shall form part of the District Fund; 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 local authority.

Fees to go to District Fund.

23. The owner of cattle impounded for trespass shall pay the trespass rates specified in the *First* 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.

Trespass rates.

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

Driving fees.

24. Except the special trespass rate specified in the *sixth* section, all trespass rates payable in respect of impounded cattle, 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.

25. 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 the trespass rate and the driving rate to the person seizing or having charge of such cattle before the same have been actually impounded, 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.

Cattle to be released before pounding if trespass and driving rates tendered.

POUNDS AND POUNDKEEPERS.

26. The local authority from time to time may, by public notification,—

Appointment of public pounds and poundkeepers.

- (1.) Assume the control and management of any pound within the limits of its jurisdiction, established or constituted under any law for the time being in force, and which is the property of Her Majesty;
- (2.) Appoint places to be public pounds; 5
- (3.) Abolish any pound; and
- (4.) Appoint, suspend, or remove poundkeepers.

All such pounds and poundkeepers, and all pounds existing and persons who are poundkeepers at the commencement of this Act shall be deemed to be public pounds and poundkeepers respectively established or appointed under this Act. 10

No pound to be notified unless fenced and provided with shelter, &c.

27. It shall not be lawful for the local authority to notify any place as a public pound, unless and until the same shall be properly fenced and enclosed, and provided with sufficient means of shelter for the animals impounded therein, and adapted so far as may be, for keeping cattle infected with any contagious or infectious disease separate and apart from other cattle. 15

Every poundkeeper shall, within four months after the commencement of this Act, provide sufficient means of shelter in the pound kept by him for the animals impounded therein, and otherwise provide that such pound shall be arranged in manner as required by this Act; and the cost of any alterations or additions made to such pound under the requirements of this section may be defrayed by the poundkeeper out of such portion of the pound fees as should be paid by him to the District Fund; and he is hereby indemnified for making such payment. 20 25

Any poundkeeper failing or neglecting to comply with this provision shall be liable to a penalty not exceeding *five* pounds.

Notification to be evidence of appointment, &c.

28. 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. 30 35

DUTIES OF POUNDKEEPERS.

29. Every poundkeeper shall keep the pound kept by him in good order and clean.

Poundkeeper to keep pound clean and in good order.

If the keeper of any 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. 40 45

Poundkeeper to keep pound-book and copy of Act.

30. 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 50

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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.

5 The 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 Slaughterhouses or Sheep, ranger, or constable free of charge, and of any other person upon payment of the sum of *one* shilling.

10 **31.** 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 a 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.

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

15 **32.** 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 herein provided, or receive an order in writing, signed by the person
20 impounding such cattle, for their release without payment of the trespass rates.

Duty and responsibility of poundkeeper.

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
25 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.

Pounds not to be opened by night.

33. Whenever any cattle are impounded the poundkeeper shall
30 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.

Notice of impounded cattle to be affixed on pound.

35 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.

34. Subject as last aforesaid, when any cattle are impounded the poundkeeper shall forthwith, in case such cattle are branded or marked
40 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.

Poundkeepers to send notice to owners of cattle impounded, and to advertise same.

45 **35.** 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.

Cattle not released to be sold at auction.

59 Such sale shall be made on the first day appointed for a pound sale next after the expiration of such fourteen or seven days respectively.

Justice may authorize suffering animals to be destroyed, or earlier sale when cattle not worth charges.

36. Any Justice of the Peace not interested in the matter may authorize,—

- (1.) The destruction of any animal impounded which is found to be diseased, injured, or disabled to such an extent that its existence involves continual suffering; or 5
- (2.) The sale, on a day earlier than hereinbefore directed, of any cattle impounded which are not of sufficient value to defray the poundage and sustenance fees of keeping the same during the time by this Act prescribed; and previous notice of such sale shall be given by the pound-keeper to the owner of such cattle personally, or left at his usual or last known place of abode, or by advertisement, as the case may require. 10

POUND SALES.

Pound sales.

37. Pound sales shall be held at such times in every month as the local authority shall prescribe by public notification. 15

Poundkeeper to act as auctioneer.

At every such sale the poundkeeper shall act as auctioneer (who in respect of such sales shall not be required to take out an auctioneer's license), 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. 20

Unsold cattle not worth keep may be destroyed.

38. 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. 25 30

Application of proceeds of pound sales.

39. 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 District Fund; 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. 35 40

Payment of residue or unclaimed trespass rates.

40. 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 District Fund; but such payment shall not prejudice the right of any person to the amount so paid or any part thereof; 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 District Fund. 45

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41. 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 pound-keeper 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, ETC.

42. If any poundkeeper shall—

Penalty for illegal impounding of cattle, &c.

- 10 (1.) Illegally impound or assist or incite any person illegally to impound any cattle;
- (2.) Purchase, 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;
- 15 (3.) Demand or receive any fees, charges, rates, or other sums of money not authorized by or under this Act;
- (4.) Fail 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; or

20 If any other person shall—

- (1.) Rescue or attempt to rescue or interfere with cattle impounded or seized for the purpose of being impounded;
- (2.) Destroy or injure or attempt to destroy or injure any pound, or any lock or bolt belonging thereto, whether any cattle shall be impounded therein or not;
- 25 (3.) Illegally impound any cattle;
- (4.) Illegally remove cattle from any one place to any other place for the purpose of impounding such cattle from such last-mentioned place;

30 he shall be liable to 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.

43. If any poundkeeper shall—

Penalty for lesser offences.

- 35 (1.) Neglect to provide sustenance for cattle impounded, or lose such cattle through wilful and culpable negligence, or use the same in any manner, while so impounded, other than in manner hereinafter authorized;
- (2.) Omit or neglect to keep books and to make entries therein as required by this Act, or wilfully make any incorrect or untrue entry in such books;
- 40 (3.) Fail to comply with, or commit any offence against, the provisions of this Act in respect of which no penalty is herein specifically provided; or

If any other person shall—

- 45 (1.) Refuse to disclose or state 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;
- 50

- (2.) Drive cattle not his own without proper authority from the land of any other person without previous notice to such person, his agent or overseer;
- (3.) Drive cattle from any land not in his occupation on to the land of any other person or on to any public road; 5
- (4.) Wilfully leave open any gate or slip-panel, or make a gap in any fence, for the purpose of permitting or causing any cattle to trespass, or otherwise wilfully cause any cattle to trespass;
- (5.) Fail to comply with, or commit any offence against, the provisions of this Act in respect of which no penalty is herein specifically provided; 10

he shall be liable to a penalty not exceeding *five* pounds, or be imprisoned for any period not exceeding *one* month, in the discretion of the Justices before whom the complaint shall be heard. 15

Burden of proof in certain cases on poundkeeper.

44. 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

Party using cattle without consent of owner.

45. 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 be liable to a penalty of 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. 30

Penalties to be paid to Public Account.

46. All penalties incurred under this Act may be recovered in a summary manner before any Resident Magistrate or any two or more Justices of the Peace, and shall be paid to the Public Account, and form part of the Consolidated Fund.

Fees to be paid to District Fund.

47. All fees payable under this Act, except where otherwise provided, shall be paid to the District Fund. 35

Cost of administration of Act.

48. All expenses and costs attending the administration of this Act shall be defrayed out of the District Fund.

REPEALS.

Repeals.

49. The several enactments enumerated in the *Fifth* Schedule hereto annexed are hereby repealed. 40

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SCHEDULES.

Schedules.

FIRST SCHEDULE.

PART I.—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, or 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

PART II.—CHARGES FOR LEADING OR DRIVING CATTLE TO POUND.

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	s. d.	1 0
For any number exceeding twenty-five, per mile .. .. .	..	2 0

PART III.—CHARGES FOR GIVING NOTICE OF DETENTION OF CATTLE.

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.	

SECOND 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 nine 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 nine months ..	2 6	1 6
For every ox, cow, steer, heifer, or calf of the first ten ..	0 6	} .. 1 6
" " " " " the next ten ..	0 4	
" " " " " the next thirty	0 3	
" " " " " all others above		
" " " " " fifty ..	0 2	

	Fees for Poundage.	Amount to be charged daily for Sustenance.
For every ram above the age of four months ..	.. 0 6	} .. 0 2
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

THIRD SCHEDULE.

FORM OF POUNDKEEPER'S BOOK.

Progressive Number.	Date.	Time.	Particulars of Cattle impounded.	Brands or Marks.	Owner.	By whom impounded.	For what cause impounded.	Time and Mode of giving Notice to Owner.	How disposed of.	Time when re-leased or sold.	Particulars of Sale.						Signature of Purchaser or of Owner re-leasing.	
											Gross Amount of Sale.		Deductions.		Net Amount of Sale.			
											£	s. d.	£	s. d.	£	s. d.		

FOURTH SCHEDULE.

[FORM OF NOTICE TO BE SENT, OR INSERTED IN ONE OR MORE NEWSPAPERS.

IMPOUNDED at [Here state the place and the number and kind of cattle, and where and how branded, and the particular sex, colour, and descriptive marks of each, and by whom impounded].

If not claimed and expenses paid, to be sold on _____ at twelve o'clock, noon.
A.B.

FIFTH SCHEDULE.

SCHEDULE OF ACTS AND ORDINANCES REPEALED.

(1.) *Ordinances of the Governor and Legislative Council of New Zealand.*

Sess. VII., 1846, No. 17.—An Ordinance to repeal the Cattle Trespass Ordinance and the Cattle Trespass Amendment Ordinance, and to provide for the summary recovery of compensation for damage done by cattle trespassing.

Sess. VIII., 1847, No. 6.—An Ordinance to authorize and regulate the Impounding of Cattle.

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(2.) *Ordinance of the Lieutenant-Governor and Legislative Council of New Munster.*
1849, No. 3.—An Ordinance to prevent entire horses and certain other Animals from being suffered to stray or run at large.

(3.) *Acts of the General Assembly.*

1876, No. 47.—The Counties Act, 1876—Sections two hundred and one, and two hundred and two.

1876, No. 52.—The Municipal Corporations Act, 1876—Sections three hundred and thirty-four, three hundred and thirty-five, and sub-section fifteen of section three hundred and forty-nine.

1880, No. 46.—The Counties Act Amendment Act, 1880—Section six.

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

Sess. XX., No. 10.—The Impounding Act, 1867.

Sess. XXII., No. 4.—The Protection of Gardens Act, 1868.

Sess. XXIX., No. 32.—The Impounding Act 1867 Amendment Act, 1874.

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

Sess. XVIII., No. 7.—The Cattle Impounding Ordinance, 1870.

Sess. XXII., No. 6.—The Cattle Impounding Ordinance 1870 Amending Ordinance, 1873.

(6.) *Acts of the Province of Hawke's Bay.*

Sess. XII., No. 1.—The Cattle Trespass and Impounding Act, 1867.

Sess. XV., No. 2.—The Cattle Trespass and Impounding Amendment Act, 1869.

Sess. XVI., No. 5.—The Cattle Trespass and Impounding Act Amendment Act, 1870.

Sess. XX., No. 5.—The Cattle Trespass and Impounding Act Amendment Act, 1873.

Sess. XXII., No. 4.—The Cattle Trespass and Impounding Act Amendment Act, 1875.

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

Sess. XXVII., No. 8.—The Wellington Impounding Act, 1874.

Sess. XXVIII., No. 8.—The Local Districts Impounding Act, 1875.

(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.

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