

No. XXVII.

CROWN LANDS
UNAUTHORIZED
OCCUPATION.

An Act further to restrain the unauthorized Occupation of Crown Lands and to provide the means of defraying the Expense of a Border Police. [22nd March, 1839.]

Preamble.

Penalties for
unauthorized occu-
pation of Crown
Lands.

WHEREAS the unauthorized occupation of the unalienated Lands of New South Wales is derogatory to the Rights of the Crown and conducive to many illegal and dishonest practices and whereas an Act was passed by the Governor and Council of New South Wales in the seventh year of the reign of His late Majesty King William the Fourth intituled "*An Act to restrain the unauthorized occupation of Crown Lands*" which has been found beneficial in its operation and whereas another Act was passed in the second year of Her present Majesty intituled "*An Act to continue and amend an Act intituled 'An Act to restrain the unauthorized occupation of Crown Lands'*" and it is expedient to repeal the same and to substitute other provisions in lieu thereof and to provide the means of defraying the expense of a Border Police Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the first day of July one thousand eight hundred and thirty-nine any person who shall be found occupying any Crown Lands lying waste in New South Wales within the limits which have been or shall hereafter be allotted for location to settlers by any Proclamation or Order of the Governor published in that behalf either by residing or by erecting any hut or building thereon or by clearing inclosing or cultivating any part thereof and shall not hold a valid lease from the Government
of

Crown Lands unauthorized Occupation.

of New South Wales for the occupation of such land shall on conviction thereof forfeit and pay the following penalties that is to say for the first offence any sum not exceeding ten pounds at the discretion of the Justice or Justices before whom the complaint shall be heard for the second offence twenty pounds and for the third and any subsequent offence fifty pounds to be recovered in a summary way before any one or more Justice or Justices of the Peace upon the information and complaint on oath of any Justice of the Peace any Commissioner of Crown Lands any proprietor or lessee of lands or the chief constable of any district Provided always that no information shall lie for any second or subsequent offence until fourteen clear days after a conviction for the former offence. Proviso as to subsequent offences.

2. And be it declared and enacted That from and after the said first day of July next ensuing it shall not be lawful for any person to occupy any Crown Lands in New South Wales beyond the limits allotted for location as aforesaid without having first obtained from the Government of New South Wales a lease or license for such purpose and that any person who shall be found occupying as aforesaid any Crown Land in New South Wales beyond the limits allotted for location as aforesaid and shall not hold a valid lease or license from the Government of New South Wales for depasturing cattle and other animals beyond the limits allotted for location as aforesaid every such person on conviction thereof shall forfeit and pay the penalties hereinbefore imposed in the case of persons unlawfully occupying Waste Lands of the Crown within the said limits of location to be recovered in a summary way before any one or more Justice or Justices of the Peace upon the information and complaint on oath of any Justice of the Peace or of any person holding any such lease or license for the occupation of Crown Lands or the overseer or manager of any station belonging to any such licensed person or any constable duly appointed for any district beyond the limits allotted for location as aforesaid. Penalty for occupying Crown Lands beyond the limits allotted for location without a lease or license.

3. And be it declared and enacted That it shall not be lawful for any person to cut saw split or remove any timber the produce of any Crown Land whether within or beyond the limits allotted for location as aforesaid upon or from the same without having first obtained from the Government of New South Wales a license for such purpose and that any person who without having a valid license from the Government of New South Wales shall cut saw split or remove any timber the produce of such Crown Land upon or from the same on conviction thereof shall forfeit and pay the penalties hereinbefore imposed in the case of persons unlawfully occupying Waste Lands of the Crown within the said limits of location Provided that unless public notice be given by the Government that the timber on any particular portion of the Crown Lands shall be reserved for the public use nothing herein contained shall be construed to prevent any proprietor or lessee of land or any licensed occupier of Crown Land or his or her overseer or manager from cutting such timber as is ordinarily used and as may be necessary and used for his or her domestic uses for fire-bote fencing stock-yards or other conveniences for the enjoyment of the said land and provided that no part of such timber shall be sold. As to cutting timber on Crown Lands.

4. And be it enacted That if any person shall forge counterfeit or alter or shall utter or make use of knowing the same to be forged counterfeited or altered any lease license or other document purporting to be an authority from the Government of New South Wales to occupy any Crown Lands within the same with intent to evade any of the provisions of this Act such person shall if free be guilty of a misdemeanor and being convicted thereof shall be liable to be transported for any term not exceeding seven years or to be imprisoned for any Penalty for forging any lease or license to occupy Crown Lands.

Crown Lands unauthorized Occupation.

any term not exceeding four years at the discretion of the Court and if such offender be a convict under sentence of transportation he shall be liable to be transported for any term not exceeding seven years or to be worked in irons on the roads or public works for any term not exceeding four years.

One Justice may declare a license void.

Appeal in cases where licenses declared void by one Justice only.

No proceedings to be taken by Commissioner whilst an appeal is pending.

Petty Sessions may award penalty and expenses.

Commissioner to dispossess such disqualified person from occupancy of Crown Lands.

5. And be it enacted That it shall be lawful for any Justice or Justices before whom any person holding a license for any of the purposes aforesaid shall be convicted on the oath of any one or more credible witness or witnesses of any felony or of illegally selling fermented or spirituous liquors or of wilfully harbouring any convict or felon illegally at large or of any malicious injury or offence committed upon or against any aboriginal native or other person or of any other offence which shall actually endanger the peace and good order of any district or tend to obstruct the due execution of the provisions of this Act to declare the license of any such person so offending to be null and void and such license shall thereupon become null and void accordingly and shall not be pleaded in justification of any offence committed against any of the provisions of this Act Provided that in all cases where a license shall be declared null and void by one Justice only and the person or persons whose license shall be by one Justice only so declared null and void shall think himself or themselves aggrieved by such decision it shall and may be lawful for any such person or persons to appeal against the said decision of such one Justice to the nearest Court of Petty Sessions within one month after the cause of appeal shall have arisen and the person or persons appealing having first given at least twenty-one days notice in writing of such appeal and the particular nature and matter thereof to the person or persons appealed against shall forthwith after such notice enter into a recognizance before the Justice against whose decision the party shall so appeal in the sum of one hundred pounds to prosecute the same without delay and no proceedings shall be taken by the Commissioner on a decision appealed against until the said Court of Petty Sessions has heard and determined such appeal and the Justices assembled at such Court of Petty Sessions two at the least other than the said Commissioner being present shall in a summary way hear and determine the said appeal and if they shall confirm the decision appealed against shall and may award such sum of money by way of penalty as such Justices shall deem reasonable not less than ten pounds nor exceeding fifty pounds together with such further sum of money as to the said Justices shall seem reasonable and sufficient to reimburse the said Commissioner for the expenses which he shall *bonâ fide* have incurred by reason of attending before the said Court of Petty Sessions to be recovered by distress and sale of the said appellant's goods and chattels by warrant under the hand and seal or hands and seals of any one or more of the said Justices which warrant such Justice or Justices is and are hereby empowered and required to grant and the overplus after such penalty and expenses and the charges of such distress and sale are deducted shall be returned upon demand to the owner of such goods and chattels.

6. And be it enacted That in case any such person or persons after being served with notice of cancellation of his or her license shall refuse or neglect to deliver up and quit the possession of such lands for the space of ten days after service of such notice upon him her or them or upon his her or their agent or agents overseer or overseers it shall and may be lawful for any Commissioner of Crown Lands being a Justice of the Peace for the district in which such lands shall be situated to enter upon such lands and to take possession of the same for and on behalf of the Crown together with any houses

OR

Crown Lands unauthorized Occupation.

or other improvements that may have been made thereon and the same to deal with as he or they shall deem most expedient for the purpose of expelling such person or persons therefrom and also to drive off and impound any cattle that may be found thereon.

and may drive off and impound cattle found on land occupied by such person.

7. And be it enacted That if any superintendent overseer manager or servant resident and employed on any establishment without the limits of location shall be convicted on the oath of one or more credible witness or witnesses of any offence which would render a licensed person liable to have his or her license cancelled such superintendent overseer manager or servant shall at the discretion of the Justice or Justices before whom such conviction shall take place be liable to forfeit and pay a sum not less than five pounds nor more than thirty pounds over and above any penalty to which such offender may be liable for such offence under any other Act or Ordinance.

Penalty for offences by superintendents overseers managers or servants.

8. And be it enacted That the holder of any license to occupy Crown Lands as aforesaid shall make or cause to be made to the Commissioner of the district wherein the lands so occupied by him or her shall be situated a report half-yearly on the first day of January and the first day of July in every year according to the form contained in the Schedule hereunto annexed marked A of all stock kept upon the lands occupied by him or her with the names and descriptions and particular brands of the respective proprietors And if any such licensed person shall fail or neglect to make or cause to be made such a report at the time so appointed for each and every half-year or shall knowingly make any false statements therein or shall omit to deposit the same with the said Commissioner in manner hereby required or shall refuse to answer or wilfully give a false answer to any question relative thereto he or she shall on conviction of such offence before any two or more Justices of the Peace other than the said Commissioner forfeit and pay for every such offence a sum not less than forty shillings nor exceeding one hundred pounds And no such licensed person nor his or her overseer or manager shall keep any stock whatever belonging to any other person unless the same with the name and description of the proprietor and the particulars of such stock be reported to the Commissioner of the district in which the same shall be depastured Provided however that unless with the consent in writing of the said Commissioner first had and obtained nothing herein contained shall be deemed to authorize any licensed person to keep stock of any unlicensed person who shall himself or herself reside within the district where the same are depastured or in any adjoining district upon pain of forfeiting on conviction of either of the two last mentioned offences before any one or more Justice or Justices of the Peace a penalty not less than one pound nor exceeding twenty pounds.

Licensed persons to report stock proprietors and brands half-yearly under a penalty.

No licensed person to keep stock belonging to any other person without reporting the same or to any unlicensed person resident in same or any adjoining district without written permission.

9. And be it enacted That for the protection of the rights of the Crown and for the mutual protection and security of all persons lawfully occupying resorting to or being upon the Crown Lands of this Colony beyond the limits allotted for location and for keeping the peace and maintaining order and regularity amongst them and for the adjustment of differences between individuals respecting the occupation of their respective stations the Crown Lands of this Colony adjacent to and beyond the limits allotted for location as aforesaid shall be divided into so many districts and each district shall extend to and be comprised within such boundaries as the Governor shall from time to time appoint by any Proclamation to be by him made and published in the *Government Gazette* and for each of such districts there shall be duly appointed by the Governor for the time being some fit and proper person being a Justice of the Peace who shall be called the Commissioner of such district and so many men mounted armed and accoutred in such manner as shall be appointed by the Governor as

Border districts beyond the limits of location and Commissioner and policemen to be appointed.

and

Crown Lands unauthorized Occupation.

and for a Border Police Force to be under the orders of and attached to the said Commissioner And if such Commissioner shall hold any stock or land in his own district and it shall be proved to the satisfaction of the Governor that he has acted in any disputed case wherein his own property was concerned he shall be thereby rendered incapable of holding the office of a Commissioner under this Act.

Duty and powers of Commissioner of border districts in ordinary cases.

Commissioner to determine on all complaints between masters and servants.

And as to encroachments by licensed persons.

And may remove stock of licensed persons so encroaching.

And may drive away and impound stock of unlicensed persons.

Penalty for obstructing Commissioner.

On oath of one or more credible person or persons that sheep cattle or horses suspected to be stolen are being driven or about to be driven through his district or having reasonable ground himself for suspecting such to

10. And be it enacted That it shall be the duty of every Commissioner of a district to be constantly within his district except by the permission of the Governor or when unavoidably absent therefrom for temporary and necessary purposes in the performance of his duty under this Act or under process of any competent Court in this Colony and he shall keep the peace in his district and protect all persons being therein in their persons and properties and in their just rights and privileges and for that purpose he shall make perambulations of his district and visit the several stations therein as occasion may require and as often as any complaint shall be made to him by any person licensed to occupy Crown lands as aforesaid that any dispute has arisen he shall being required so to do visit such station and enquire into the matter of the said complaint and shall being thereto required by the parties in dispute or either of them so to do by writing under their or either of their hands hear and finally determine the matter of the said complaint and shall also hear and determine on all complaints between masters and persons hired or employed by them and shall make such orders thereupon according to Law as to him shall seem meet and shall enforce the execution thereof and upon the complaint of any licensed party or of his or her overseer or manager that any person has encroached upon the station or run of any such party the Commissioner of the district shall and may immediately proceed to enquire on the spot into the circumstances of the case and if necessary to hear evidence on oath touching the same and if it shall appear to the said Commissioner on view or by such evidence that any such person has encroached upon the station or run of any such party by the depasturing of stock or in any other manner contrary to the established usage and practice of the Colony in any such case it shall be lawful for the said Commissioner to remove or cause to be removed from one place to another in the said district the cattle and sheep and servants of any licensed person so found and determined by the said Commissioner to be encroaching as aforesaid And the said Commissioner shall and may remove and drive away the cattle and sheep of unlicensed persons within his district and impound the same in the nearest pound within the limits of location And if any such licensed or unlicensed person or persons or his her or their servants shall resist the said Commissioner and prevent or endeavour to prevent his so removing or causing to be removed such cattle or sheep so found to be encroaching or being the property of the said or any other unlicensed person every such licensed person and likewise every such unlicensed person so offending shall forfeit and pay for every such offence a sum not less than twenty pounds nor more than one hundred pounds to be recovered in a summary way before the nearest Court of Petty Sessions two or more Justices other than the said Commissioner being present.

11. And be it enacted That whenever it shall be made to appear to the satisfaction of any Commissioner upon the oath of one or more credible person or persons or whenever any Commissioner shall himself have just cause to suspect that any stolen sheep cattle or horses are being driven or conducted or about to be driven or conducted through his district it shall be lawful for the said Commissioner immediately to seize and detain or to grant a warrant for the immediate

Crown Lands unauthorized Occupation.

mediate seizure and detention of such sheep cattle or horses and the persons driving or conducting or about to drive or conduct the same unless the person or persons so driving or conducting or about to drive or conduct the same shall satisfactorily shew to the said Commissioner that the said sheep cattle or horses are his her or their own lawful property or the lawful property of some other person or persons who has or have duly authorized him her or them by writing under his her or their hand or hands so to drive or conduct the same and in default of their so shewing as aforesaid it shall be lawful for the said Commissioner to summon the person or persons so making oath as aforesaid to appear before himself and some other Justice or Justices who shall reside in or nearest to his district satisfactorily to prove to them the fact of such sheep cattle or horses being stolen and on such satisfactory proof thereof the said Commissioner and Justice or Justices are hereby authorized and required to commit such person or persons so driving or conducting or about to drive or conduct such sheep cattle or horses as aforesaid to any of Her Majesty's gaols which shall be in or nearest to the said district there to remain until dealt with according to law as in such case made and provided and also to deal with the said stolen or suspected to be stolen sheep cattle or horses in like manner as is by law in such case made and provided Provided however that if any person or persons being so summoned as aforesaid shall neglect or refuse to appear without a reasonable excuse for such neglect or refusal to be allowed by the said Commissioner and Justice or Justices or appearing shall refuse to be examined on oath or to give evidence touching the matter so depending before the said Commissioner and Justice or Justices then and in every such case every such person shall forfeit and pay for every such offence a sum of not less than ten pounds nor more than one hundred pounds to be recovered in a summary way before any two or more Justices of the Peace And provided also that whenever it shall appear to the said Commissioner and Justice or Justices that the party or parties so making oath and summoned as aforesaid had no just or reasonable ground for suspecting the said sheep cattle or horses to be stolen then and in every such case it shall be lawful for the said Commissioner and Justice or Justices to commit the said person or persons for perjury and being convicted thereof he she or they shall suffer the like pains and penalties and incur the same disabilities as persons adjudged guilty of wilful and corrupt perjury are by law subject to.

12. And be it enacted That it shall and may be lawful for the Commissioner of any district as aforesaid to appoint for the purposes of this Act one or more convenient place or places within the same whereof one shall be at or near his fixed station for a public pound or pounds in the said district and also a fit and proper person to be the keeper of such pound in such manner to all intents and purposes as Justices assembled at any Court of Petty Sessions holden within any district of the Colony or the major part of them may lawfully do And the provisions of a certain Act made and passed by the Governor of this Colony with the advice of the Legislative Council in the fourth year of the reign of His late Majesty King William the Fourth intituled "*An Act to repeal an Act of the Governor and Council of New South Wales intituled 'An Act to authorize the erection of Pounds and for regulating the impounding of Cattle and to make further and other provisions in lieu thereof'*" shall except as hereinafter provided be applicable to and applied respecting all acts matters and things relating to pounds and poundkeepers and cattle trespassing in any district beyond the limits of location as aforesaid so far as circumstances will admit Provided always that all

be the case Commissioner may seize and detain the said stock together with the persons so driving or about to drive them or grant his warrant for their seizure and detention unless the said persons shall satisfactorily shew to the contrary.

Commissioner to summon parties so making oath to appear before himself and one or more Justice or Justices residing in or nearest to his district.

On proof of such sheep cattle or horses being stolen persons so driving or about to drive the same to be committed and the sheep &c. to be dealt with according to law.

Penalty on persons so making oath refusing or neglecting to appear when summoned or appearing refusing to give evidence.

Such persons in default of satisfactory proof that they had just reason to believe such sheep cattle or horses to be stolen to be deemed and dealt with as being guilty of wilful and corrupt perjury.

Provisions of the Impounding Act to be applied as modified beyond the limits of location.

Crown Lands unauthorized Occupation.

Impounding Act to be applied only as expressly authorized by this Act.

All persons resident or employed at any station to be reported to the Commissioner.

Brands &c. of different proprietors to be distinct and registered with the Commissioners.

Unbranded beasts above one year old to be impounded branded and sold unless owner prove right of property within twenty-one days.

Yearly assessment to be levied upon stock depastured beyond the limits of location.

acts matters and things in the said recited Act mentioned which are authorized or required to be executed or done by or by order of any Justice or Justices of the Peace or Clerk of Petty Sessions shall and may be executed and done respectively by or by order of the Commissioner of any such district as aforesaid. Provided nevertheless that it shall not be lawful to apply the provisions of the said recited Act in any part of the Colony beyond the limits allotted for location as aforesaid except in such cases only as may be expressly authorized and directed by the provisions of this Act.

13. And be it enacted That every person licensed to occupy lands in any such district shall immediately after he shall take possession of or occupy any lands in the said district by himself or his servants prepare or cause to be prepared a report in the form contained in the Schedule hereunto annexed marked A containing a list of the names and descriptions of all persons employed by or residing with him in the said district and a return of all the stock brought by him to the same with the other particulars therein specified to be delivered to the Commissioner of the said district when applied for by him either personally or by any person deputed by him to receive the same and shall also notify or cause to be notified in writing on all occasions when his station may be visited by the said Commissioner every change of persons on his establishment which shall have taken place upon pain of forfeiting for every neglect to furnish such a report as aforesaid the sum of five pounds and for not notifying any change of persons on his establishment the sum of one pound.

14. And be it enacted That every person licensed to occupy lands as aforesaid shall have a separate and distinct permanent brand for cattle and for horses and shall register such brands respectively with the Commissioner. And it shall and may be lawful for the said Commissioner to make order for any proprietor last coming into his district whose proper brand may be similar to that of a prior occupant therein to make such a difference in his brand as may be necessary to prevent mistake or confusion therefrom the particular change or alteration in such brand to be determined on by the said proprietor provided always that it shall meet the object required. And if any person shall fail to have such distinct permanent brands as aforesaid or to make such difference and shall refuse or neglect to provide himself with such brands or to make such difference within one month after receiving a notice to that effect unless further time be given by the Commissioner upon reasonable cause shewn to the satisfaction of the said Commissioner he shall forfeit and pay a sum not less than one pound nor more than twenty pounds.

15. And be it enacted That it shall and may be lawful for any such Commissioner or any person by his order at and after the expiration of one year after this Act taking effect to collect and impound any unbranded beasts in his district above one year old and after the expiration of twenty-one days to brand and sell the same and the proceeds thereof shall be appropriated to the general purposes of this Act. Provided however that if within twenty-one days from and after the impounding of such cattle any person shall prove to the satisfaction of the said Commissioner his right of property in the said cattle and shall immediately brand the same with his or her registered brand such beast or beasts shall be given up on payment of a fine of ten shillings per head.

16. And whereas in order to defray the expenses of the payment of the salaries of the said Commissioners and police officers necessary to carry the objects aforesaid into due execution it is expedient that an assessment should be raised and levied upon and off the sheep cattle and horses in the possession of the person so licensed

as

Crown Lands unauthorized Occupation.

as aforesaid to keep and depasture the same on lands situated without the located parts of the said Colony Be it therefore enacted That from and after the said first day of July one thousand eight hundred and thirty-nine there shall be paid and levied in each and every half-year upon for and off the sheep cattle and horses of every person depasturing or keeping the same upon any of the Crown Lands of the said Colony beyond the limits allotted for location as aforesaid the assessment following that is to say for each and every ram ewe wether and weaned lamb the sum of one half-penny and for each and every bull ox cow steer heifer and calf above the age of six months the sum of one penny half-penny and for each and every horse gelding mare and foal above the age of six months the sum of three-pence which half-yearly assessments respectively shall be paid to the Colonial Treasurer of the said Colony at his office in Sydney (or to such other person or persons or at such other place or places as may be appointed by the Governor) on or before the first day of April and the first day of September in each and every year commencing the first payment thereof on the first day of September one thousand eight hundred and thirty-nine for the half-year from the first day of July of the same year to the thirty-first day of December thence next ensuing provided always that no abatement shall be made from the assessment for any half-year as aforesaid for any stock removed at any intermediate period of such half-year nor shall any increased assessment be chargeable for any additional stock introduced during the same period.

17. And be it enacted That if any newly licensed person shall enter upon and occupy with his or her stock any such vacant Crown Lands beyond the limits allotted for location as aforesaid at any intermediate period between the first day of January and the first day of June or the first day of July and the first day of December respectively in any year the person so for the first time occupying or introducing stock upon land shall be liable for the full amount of the assessment for the then current half-year and shall pay the same at the time hereinbefore appointed for payment of the assessment for such half-year or if that time be then past he or she shall pay the same within one month after the date of the service upon him or her of a notice from the Commissioner of the district requiring him or her to pay such assessment but no such newly licensed person shall be liable to any assessment for any current half-year for stock introduced upon land for the first time occupied by him or her within one month prior to the termination of such half-year.

Newly licensed persons to pay full assessment for stock introduced during first five months of any half-year but none if introduced during last month of such half-year.

18. And be it enacted That the Commissioners in their respective districts shall at the beginning of each and every half-year commencing on the first day of January and first day of July respectively proceed to make an assessment of the sheep cattle and horses depastured within their districts and shall make a return thereof to the Colonial Treasurer of the said Colony or to such other person or persons as may be appointed as aforesaid in the form and containing the several particulars set forth in the Schedule to this Act annexed marked with the letter B according to which return the half-yearly assessment hereinbefore mentioned shall be payable and be paid to the said Colonial Treasurer or to such other person or persons as may be appointed by the Governor to receive the same on or before the respective days or times hereinbefore appointed for the payment thereof And if at any time between the commencement of any such half-year as aforesaid and the first day of June or the first day of December then respectively next ensuing any newly licensed person shall for the first time depasture sheep or cattle or horses on any such vacant Crown Lands as aforesaid the Commissioner of the district shall proceed to make an assessment upon the same and a return thereof to

Commissioners to assess stock and make returns thereof half-yearly.

And must assess and notify to newly licensed persons the amount of such assessment immediately after their taking possession.

Crown Lands unauthorized Occupation.

the said Colonial Treasurer or other person or persons appointed as aforesaid in the same manner as the half-yearly return aforesaid which assessment shall be paid in the manner and at the time hereinbefore appointed for the payment thereof.

Commissioner shall serve a written notice upon the parties liable to such assessment requiring them to pay the same.

19. And be it enacted That the said several Commissioners in their respective districts shall not less than one calendar month previous to the said days or times hereinbefore appointed for the payment of the said assessment cause a notice in writing in the form contained in the Schedule hereunto annexed marked C to be served upon the person or persons subject and liable to pay the same or to be left at the residence of such person (if within the district) or with the superintendent or person having the charge of the said sheep cattle or horses if the owner or owners thereof shall not reside within the said district requiring him her or them on a certain day to be therein stated to pay the amount of the said assessment in the said notice mentioned to the said Colonial Treasurer or other person appointed as aforesaid.

Parties objecting may appeal to nearest Court of Petty Sessions giving notice to Commissioner.

20. And be it enacted That in case the sum mentioned in the said notice so served on any person or persons required to pay the same shall appear to such person or persons an overcharge or more than he she or they is or are legally bound to pay such person or persons may appeal against such assessment to the nearest Bench of Magistrates sitting in Petty Sessions Provided that such person or persons shall give to the said Commissioner a notice in writing of such appeal and of the grounds thereof within ten days after the service as aforesaid of the said notice and shall also enter into a recognizance in double the amount of such assessment before the said Commissioner conditioned personally to appear at the said Petty Sessions on such day or days as shall be named therein and to try such appeal and to abide the judgment of the said Court of Petty Sessions and to pay such costs and expenses as shall be by the said Court awarded and any Justice or Justices sitting in said Petty Sessions shall hear and determine the matter of the appeal and shall make such order therein as to the said Court shall seem meet and in case of the dismissal of the appeal or the affirmance of the said assessment shall order and adjudge the person or persons so appealing to pay the amount of such assessment to the Colonial Treasurer (or such other person or persons as may be appointed as aforesaid) and also such costs and expenses as may be awarded to the said Commissioner by the said Court within ten days and if such costs and expenses be not paid within such time the said Court shall and may issue a warrant or warrants of distress to levy the amount of such costs and expenses by a distress and sale of a sufficient part of the sheep cattle or horses of the person or persons so appealing.

In case parties neglect or refuse to pay Commissioner to serve a renewed notice.

21. And be it enacted That in case any person or persons so liable to pay the said assessment and upon whom or upon whose superintendent or agent in the district such notice shall have been so served as aforesaid or in case any person or persons so adjudged to be liable in payment of the said assessment upon appeal as aforesaid shall refuse or neglect to pay the same upon the day appointed by such notice or within the time appointed in cases of appeal as aforesaid as the case may be it shall and may be lawful for the said Colonial Treasurer or other person or persons appointed as aforesaid after the expiration of one week from the days or times so respectively appointed to direct the Commissioner in whose district any person or persons so refusing or neglecting to pay as aforesaid shall reside to cause a renewed notice in the form contained in the Schedule hereunto annexed marked D to be served upon each of the said persons charging them to pay the amount which they are severally so liable to pay as aforesaid together with an additional sum equal to one-fifth part of that

for

Crown Lands unauthorized Occupation.

for which they are so respectively liable by way of penalty for such refusal or neglect and if any of the said persons shall fail so to do within one calendar month after the date of service of such renewed notice it shall be lawful for the said Colonial Treasurer or other person or persons appointed as aforesaid to direct the said Commissioner to issue a warrant or warrants under his hand and seal directed to some one or more constable or constables of the district to levy the amount of the assessment and penalty aforesaid so due by a distress of a sufficient part of the sheep cattle or horses of the defaulter or defaulters and such constable or constables to whom such warrant or warrants shall be so directed is and are hereby authorized under and by virtue thereof to distrain take and drive to the nearest pound within such district such and so many of the sheep cattle or horses of the party in said warrant mentioned as shall be sufficient (when sold) to pay the amount of such assessment and penalty and the costs and expenses of making such distress and the payment of the maintenance of such sheep cattle or horses till sold and that within twenty days after such sheep cattle or horses shall have been so distrained and lodged in pound as aforesaid the same (or a sufficient part thereof) shall be sold and disposed of by public auction notice of the same being during such period posted on the pound and also on such other public place or places as the Commissioner may for such purpose appoint (unless previous thereto the said assessment penalty costs and expenses shall be paid) and the proceeds thereof shall be applied to the payment of the assessment penalty costs and expenses aforesaid and the surplus (if any) shall be paid and returned to the owner or superintendent of the said sheep cattle or horses Provided however that when such warrant shall be so issued as aforesaid in case the owner or superintendent of the sheep cattle or horses so directed to be thereby distrained shall pay or tender to the constable or constables authorized to execute the same the amount of the said assessment and penalty therein mentioned then and in such case the said constable or constables shall and are hereby authorized to accept and receive the same and give a receipt or receipts for the money so received and to refrain from making and executing the said distress.

And in case of continued neglect or refusal on being so instructed by the Colonial Treasurer or other person or persons as aforesaid to issue warrant to levy the same by distress.

22. And be it enacted That it shall and may be lawful for the said Commissioner to charge and receive for and upon the decision of any disputed question respecting trespass or encroachments upon a complaint made by any licensed occupier of Crown Lands a fee of five pounds to be paid by the party or parties against whom his decision shall be made and he shall render an account of all sums of money so chargeable and received by him and all assessments and penalties and all fines and forfeitures and expenses and costs payable and receivable by him under this Act verified by his solemn declaration in the form contained in the Schedule hereunto annexed marked E to the Colonial Treasurer or other person or persons appointed as aforesaid quarterly on the first day of January the first day of April the first day of July and the first day of October in each year and shall at the same time pay over to the Colonial Treasurer or other person or persons appointed as aforesaid all sums so received by him.

Fee chargeable by Commissioner.

Who shall make to the Colonial Treasurer or other person or persons appointed as aforesaid verified returns quarterly of all fees and other monies receivable and payable by him and shall also at such times pay over all sums so received by him.

23. And be it enacted That all penalties fines and forfeitures incurred or imposed under this Act shall and may be sued for and recovered in a summary way before the said Commissioners respectively or any one or more Justice or Justices of the Peace (except as hereinbefore specially provided for) under and according to the provisions of an Act made and passed by the Governor of New South Wales with the advice of the Legislative Council thereof in the fifth year of the

Mode of recovering penalties under this Act.

Crown Lands unauthorized Occupation.

5 Wm. IV. No. 22. the reign of His late Majesty King William the Fourth intituled "*An Act to regulate summary proceedings before Justices of the Peace.*"

Protection of persons
acting in execution
of this Act.

24. And for the protection of persons acting in execution of this Act Be it enacted That all actions for any thing done under this Act shall be commenced within six calendar months after the fact was committed and not otherwise and notice in writing of such action and the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in every such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant together with costs incurred up to that time And if a verdict shall pass for the defendant or the plaintiff become nonsuited or discontinue such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in other cases and although a verdict shall be given for the plaintiff in such action such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Appropriation of
sums payable under
this Act.

25. And be it enacted That all sums of money payable under and by virtue of this Act shall be applied and appropriated as far as may be necessary to the establishment maintenance and support of a Border Police consisting of the Commissioner and so many mounted and dismounted men as shall from time to time be appointed by the Governor for the time being in every district adjacent to and beyond the limits of location appointed as aforesaid for the mutual protection and security of all persons lawfully occupying or being upon the Crown Lands beyond the limits allotted for location and the residue thereof if any shall be retained and appropriated as required to the purposes of this Act.

Not to affect the
rights of the Crown.

26. And be it enacted That no possession nor occupation of any land taken or had under or by virtue of any license as aforesaid shall be construed to give any title whatever against the Crown or to alter in any respect the rights of Her Majesty Her Heirs and Successors in respect to any such land.

Proceedings not to be
quashed or removed
by *certiorari*.

27. And be it enacted That no order judgment nor other proceeding made touching and concerning any of the matters aforesaid or touching and concerning the conviction of any offender or offenders against this Act or Ordinance shall be quashed or vacated for want of form only or be removed or removable by *certiorari* or any other writ or process whatsoever into Her Majesty's Supreme Court of New South Wales.

Commencement and
continuation of Act.

28. And be it enacted That this Act shall commence and take effect from and after the first day of July one thousand eight hundred and thirty-nine and shall continue in force until the first day of July one thousand eight hundred and forty-one and that from and after the thirtieth day of June one thousand eight hundred and thirty-nine the said recited Act of the Governor and Council intituled "*An Act to continue and amend an Act intituled 'An Act to restrain the unauthorized occupation of Crown Lands'*" shall be and the same is hereby repealed.

Repeal of 2 Victoriae
No. 19.

Crown Lands unauthorized Occupation.

SCHEDULES REFERRED TO.

SCHEDULE A.

First day of 18
 HALF-YEARLY RETURN of the number of Persons employed or residing at and of the number and description of the Live Stock on the Licensed Station of Mr. called situated in the District of adjacent to the County of of which District Esquire is the Commissioner rendered in conformity with the provisions of the Act of the Governor and Council 2 Victoria No. 27.

1	2	3	4	5	6	7					8			9	10
STATION.	Names of Proprietors of Stock herein returned.	Person superintending.	Estimated Extent of Run.	Number of Acres in Cultivation.	How watered.	Persons at Station.					Stock on Station.			Number of Licences.	Brand.
						Free.		Bond.		TOTAL.	Horses.	Cattle including Calves above 6 months old.	Sheep including weaned Lambs.		
						Male.	Female.	Male.	Female.						
	A. B.										1	2	3		AB
	C. D.										4	5	6		CD
	E. F.										7	8	9		EF
	G. H.										10	11	12		GH
	I. K.										13	14	15		IK
	L. M.										16	17	18		LM
TOTALS											51	57	63		

I do hereby certify upon oath if required that the above is a just and true Return.

Proprietor or Superintendent
(as the case may be).

Nominal List of Persons referred to in the within Return.

FREE PERSONS.

A. B. Superintendent.
 C. D. Shepherd.
 E. F. His Wife.
 G. H. His Son.

BOND SERVANTS.

A. B. Shepherd.
 C. D. Hut-keeper.
 E. F. Stock-keeper.

