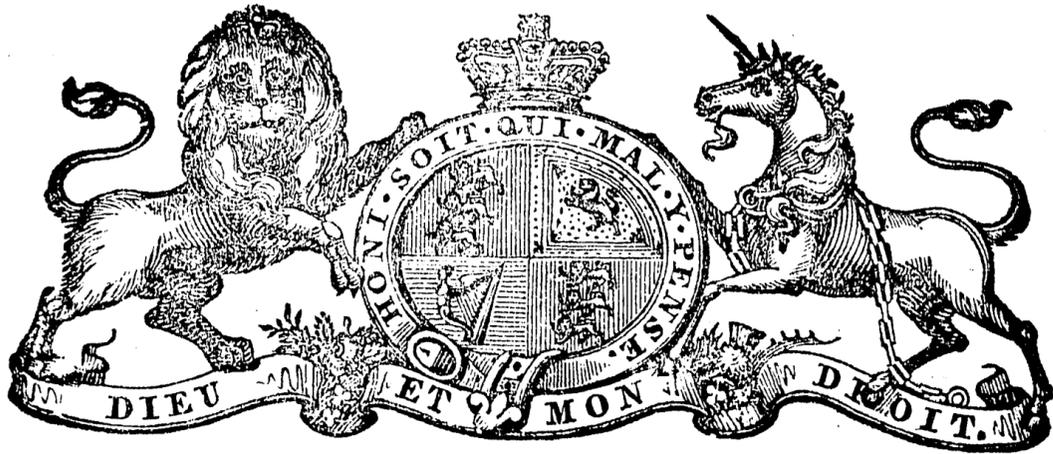


VICTORIA.



ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

No. CCXLIX.

An Act to Consolidate the Law relating to the Impounding of Cattle.

[9th May, 1865.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly in this present Parliament assembled and by the authority of the same as follows—

1. This Act shall come into operation on the first day of June in the year of our Lord One thousand eight hundred and sixty-five and shall be called and may be cited as "*The Pounds Statute 1865.*"
2. The Acts mentioned in the First Schedule hereto annexed to the extent to which the same are in and by the said schedule expressed to be repealed shall be and the same are hereby repealed but nothing herein contained shall be deemed or taken to affect any act or thing lawfully done or commenced or any regulation made or any bond recognizance or notice entered into or given under any of the said repealed Acts before the coming into operation of this Act. All pounds existing and poundkeepers in office at the commencement of this Act shall be deemed to all intents and purposes to have been respectively established and appointed under this Act and to be subject to the provisions hereof. All offences committed and causes of action and complaint accrued and fines and penalties incurred under or against any of the said Acts before the coming into operation of this Act shall be prosecuted and enforced respectively as if this Act had not been passed.
3. In

Title of Act.

Repeal of Acts.
First Schedule.

Interpretation
terms.

of 3. In the construction and for the purposes of this Act if not inconsistent with the context or subject matter the following terms shall have the respective meanings hereby assigned to them (that is to say):—

The term "cattle" shall be deemed and taken to mean and to include horses mares geldings colts fillies asses mules bulls cows oxen heifers steers calves rams ewes sheep lambs goats and swine. The terms "head of cattle" shall be deemed to include horses mares geldings colts fillies foals asses mules bulls cows oxen heifers steers and calves and the word "sheep" shall mean and include rams ewes sheep lambs goats and swine and the said terms shall be deemed and taken to mean include and apply to any one animal of the said several kinds

The term "poundkeeper" shall mean imply and include any person who may have the authorised charge of any pound, whether such poundkeeper shall be gazetted as such poundkeeper or not or whether such poundkeeper shall hold any other office or have any other designation or not

The term "court of petty sessions" shall mean and refer to the justices assembled in and forming the court of petty sessions holden or to the stipendiary magistrate resident nearest to the pound respecting which such reference shall be made or to the place where any cattle may be detained instead of being impounded in accordance with the provisions of this Act

The terms "owner" and "occupier" of any lands shall include any person occupying any waste lands belonging to the Crown under any lease license or other proper authority as also any superintendent overseer or other duly authorised person acting for and on behalf of any such owner or occupier

The word "borough" shall apply to and include the city of Melbourne and the town of Geelong.

Pounds established.

4. The Governor in Council may appoint convenient places in any part of Victoria outside the limits of any shire or borough and the council of every shire and the council of every borough may appoint any such places within the limits of such shire and borough respectively for the establishment erection and maintenance of public pounds and from time to time whenever it may seem expedient the Governor in Council and the council of every shire and the council of every borough respectively may abolish any pounds established or to be established hereunder outside the limits of any shire or borough and within the limits of any shire and within the limits of any borough respectively and may respectively establish other pounds as aforesaid.

Appointment and removal of pound-keepers.

5. The court of petty sessions and the council of every shire and the council of every borough respectively shall select and appoint fit and proper

proper persons to be poundkeepers in such pounds established outside the limits of any shire or borough and within the limits of such shire and within the limits of such borough respectively as aforesaid. If at any time any such poundkeeper shall be guilty of any neglect or offence under this Act or shall not perform the duties of poundkeeper to the satisfaction of such court council of shire or council of borough respectively such poundkeeper shall be removed from such pound and any vacancy caused by such removal or by the death or resignation of any poundkeeper shall be filled in the manner hereinbefore provided for the appointment of poundkeepers. Every poundkeeper appointed by the council of a shire or a borough shall be an officer of the council of such shire or borough within the meaning of any laws now or hereafter to be in force relating to shires or boroughs.

6. A notification of the appointment or removal of any poundkeeper or the establishment or abolition of any pound shall be inserted in the *Government Gazette* and such notification shall be deemed and taken for all intents and purposes to be evidence that such poundkeeper or pound has been legally appointed removed established or abolished as in the said notification is mentioned.

Pounds and poundkeepers to be gazetted.

7. Every poundkeeper appointed under this Act shall be paid such salary as the Governor in Council or (if the pound to which such poundkeeper is appointed be within the limits of a shire or a borough) the council of such shire or the council of such borough respectively may deem reasonable. All expenses of erecting removing or keeping in repair any pound shall be paid out of the consolidated revenue or (if the pound be within the limits of a shire or borough) out of the shire fund or borough fund respectively but no expense except in case of some emergency whereby the safety of the cattle impounded is endangered shall be allowed for which any such poundkeeper has not previously obtained an authority in writing from the court of petty sessions or (if the pound be within the limits of a shire or a borough) from the council of such shire or borough respectively and the justices of such court and such councils are hereby authorised to inspect any work that may be required in regard to any pound within their jurisdictions respectively and may and shall respectively give authority for the expenditure of such sum as shall be necessary for the erection removal or repair of any such pound.

Poundkeepers to be paid a salary.

8. The keeper of every pound legally constituted by virtue of this Act may demand and receive pound fees for the cattle of the several descriptions which shall be impounded therein the several and respective sums following (that is to say)—for the first or only head of cattle the sum of sixpence and for every additional head of cattle impounded at the same time and upon the same account the sum of threepence each and for the first or only sheep the sum of fourpence and for every additional sheep impounded at the same time and upon the same account the sum of one penny each.

Pound fees.

9. The fees hereinbefore set forth shall and may be demanded by any

Appropriation of pound fees.

any poundkeeper as the pound fees irrespective of the fees for food or for giving notice as hereinafter provided. The pound fees received for any cattle impounded in a pound outside the limits of any shire or borough shall be paid into and shall form part of the consolidated revenue and the pound fees received for any cattle impounded in a pound within the limits of a shire or within the limits of a borough shall be paid into and shall form part of the shire fund or the borough fund of such shire or borough respectively.

Sustenance fees and rates of damage.

10. The court of petty sessions or (if the pound be situated within the limits of a shire or of a borough) the council of such shire and the council of such borough respectively may from time to time appoint and fix the fees which it shall be lawful for the keeper of any pound to charge and receive for his own use for the sustenance of the cattle of whatever description which shall be impounded in any such pound and may also appoint and fix the rates as and for ordinary damages which shall and may be demanded by the owner or occupier of any lands for the trespass of any cattle thereon which rates shall be proportioned according to the respective descriptions and value of the crops growing upon the lands trespassed on and also to the respective descriptions and nature of the cattle trespassing according to the form in the Second Schedule to this Act annexed, subject to the approval of the Governor in Council and such fees and rates may alter or amend subject as aforesaid and such fees or rates or any altered or amended fees or rates being notified in the *Government Gazette* shall and may be lawfully taken charged demanded and recovered respectively as aforesaid but no provision shall be made for damages committed upon cultivated land not securely enclosed to a greater amount than would be payable if the trespass had been committed on land not cultivated. Provided that in case any cattle shall be impounded off the same land more than once within three months the person so impounding may legally claim and obtain double the amount of damages so fixed as aforesaid and if any such cattle shall be impounded three or more times within the period of six months from off the same land such person so impounding may claim and be legally entitled to three times the amount of damages so fixed as aforesaid and every provision of this Act shall apply and be equally in force in reference to such double or treble damages as if the ordinary damages alone were claimed.

Second Schedule.

Double damages for a second impounding and treble for a third.

Cattle trespassing to be impounded in nearest pound.

11. All cattle impounded under the provisions of this Act shall be sent to the pound nearest to the place where the cattle were trespassing and the person impounding any such cattle shall in a written memorandum specify to the keeper of the pound the number and kinds of the cattle impounded and the name of the owner if he be known or supposed owner or otherwise state that he is wholly unknown to the person impounding the place where the said cattle were trespassing and the amount of damages claimed for the trespass and if any owner occupier of land or other authorised person shall impound any cattle in any pound or place not authorised by this Act or in any manner contrary to

to the directions and provisions hereof every person so offending shall upon conviction forfeit and pay a fine not exceeding twenty pounds for every such offence.

12. The keeper of every pound shall have and preserve at or near to the said pound a copy of this Act and shall also keep a pound book ruled marked and divided into columns as near as may be in the form in the Third Schedule to this Act and he shall enter in the said pound book in a legible hand the particulars of all cattle lodged in the pound specifying the day and hour as near as may be when and the cause for which the same were respectively impounded and by whom they were sent the time and mode of giving notice of the said impounding as by this Act required and also when and in what manner the same were released and by whose order and to whom delivered the particulars of all sales and of the proceeds thereof and the said entries shall be made at the time the said acts were respectively done or as soon after as possible but not after any dispute concerning such entry shall have arisen and a copy of the said pound book shall once in every month (if such pound be not within the limits of a shire or of a borough) be produced before the court of petty sessions or (if such pound be within the limits of a shire or of a borough) before the council of such shire or borough respectively and the said pound book and a copy of this Act shall at all reasonable times be produced by the said poundkeeper to and be open for the inspection of any justice or member of the police force free of charge and of any other person desiring to see the same upon payment to the said poundkeeper for his own use of the sum of sixpence for every such inspection and the said poundkeeper shall grant extracts signed by himself from the said pound book upon payment of one shilling for every such extract not exceeding one hundred words and sixpence for every subsequent number of words not exceeding one hundred and if any poundkeeper shall neglect or refuse to produce a copy of this Act or the said pound book for the inspection of any justice or member of the police force or of any person desiring to see the same upon his lawful fee for the same being first paid or offered to be paid or shall neglect or refuse to grant extracts as aforesaid upon the proper fee being first paid or tendered he shall forfeit and pay for every such default a sum not exceeding five pounds; and if any poundkeeper shall wilfully delay making any entry or shall knowingly make any false entry in the said pound book or shall wrongfully erase or destroy any entry previously made therein he shall forfeit and pay for every such offence a sum not exceeding twenty pounds.

13. Every poundkeeper shall erect and maintain on or near some conspicuous part of the said pound a board having painted thereon in legible white characters on a black ground the christian and surname of such poundkeeper and a table of all the fees and charges he is by this Act authorised to demand have and receive together with all rates of damages as allowed under and by virtue of the authority of the court of petty sessions or of the council of a shire or of a borough (as the case

may

Poundkeeper to keep book for entry of all impounded cattle which book may be inspected.

Third Schedule.

Poundkeeper to erect board with fees to be taken painted thereon.

may be) as aforesaid and if he shall fail to keep and maintain such board in proper repair after it has been erected or neglect to make any alteration therein which may afterwards become necessary within a reasonable time after the said alteration ought to be made or shall knowingly paint or cause to be painted any false statement thereon he shall forfeit and pay for every day that such board shall not be erected (except during such reasonable time as the same shall be taken down for alteration or repair) and for every day that such board shall not be maintained in proper repair or a lawful alteration be not made after a reasonable time for making the same respectively shall have elapsed as aforesaid the sum of one pound and for every day that he shall knowingly suffer any false statement to remain on the said board the sum of five shillings.

Poundkeeper responsible for safe custody of cattle impounded.

14. Every poundkeeper shall receive and detain in his custody any cattle lodged in such pound and shall be responsible to the owner thereof for every loss or damage sustained by the wilful act or the neglect of such poundkeeper or his servants and the said poundkeeper shall and may detain all cattle so impounded until the sum for which the same were impounded together with the lawful fees and charges shall be paid or tendered or until he shall receive notice of the decision or order of a court of petty sessions as hereinafter provided or the written order of the person impounding such cattle to deliver the same on payment being made of the lawful fees and charges exclusive of any damages that may be claimed.

Poundkeeper to post notice of cattle in the pound on the gate.

15. Every poundkeeper whenever and as often as any cattle shall be impounded for trespass shall post a written notice on the gate or on some other conspicuous part of the pound setting forth a description of the cattle so impounded or in his possession and such notice shall remain so posted until such cattle shall have been claimed or otherwise disposed of by due course of law.

Poundkeeper to register brands of cattle owners.

16. Every poundkeeper shall keep a book in which shall be entered the brands or other marks of any cattle belonging to any person or depastured on any common with the name or names and place of residence or the office of any person or of the managers of any common who may see fit to have his or their name or names and the brands of such cattle thus entered and for such entry the fee of five shillings shall be paid to the poundkeeper for his own use and if after any such entry any cattle having any brands or marks thus registered shall be impounded in any such pound it shall be imperative upon such poundkeeper as soon as possible to give notice of such impounding to such person or managers so registering any such brands or marks in the same manner and under the same regulations and upon payment of the same fees as hereinafter provided in case the owner of any cattle impounded shall be known to such poundkeeper or party impounding.

Notice of impounding to be sent to owners or party registering brands.

17. When any impounded cattle shall not be followed to the pound or immediately claimed by the owner thereof or by some one on his behalf the keeper of the said pound shall as soon as possible send notice in writing to

to be delivered personally or left at the usual place of residence of the owner if he be known or if the animals be branded with any brands registered with such poundkeeper to the person or managers so registering such brands as aforesaid or to his or their agent or overseer or herdsman provided the owner or registering person or managers or his or their agent or overseer or herdsman reside or have an office within ten miles of the said pound and if the said known owner or registering person or managers shall reside or have an office at a greater distance and have no known agent or overseer or herdsman residing within ten miles such notice shall be sent by the General Post Office to the place of residence or office of such owner or person or managers registering the brands or to his or their agent or overseer or herdsman and every such notice shall contain the same particulars as are required to be given to the poundkeeper by the person impounding the same and also shall contain notice of the time when and the place where the said cattle will be sold if not sooner released from the said pound and also the sum of money for which the same were impounded and if neither owner nor agent nor overseer nor herdsman be known to the said poundkeeper and the brands on such cattle have not been registered then the poundkeeper shall cause the like notice to be posted at the nearest court of petty sessions and a notice in the form in the Fourth Schedule hereto annexed to be inserted in the next *Government Gazette* which shall be published after the expiration of twenty-four hours from the time that such cattle were impounded and in which it shall be possible to cause the same to be inserted but when the cattle impounded under the provisions of this Act shall consist of sheep goats swine or calves and be not more than two in number it shall not be necessary to give any other notice of such impounding than by affixing notice thereof on the pound in the manner hereinbefore directed. Provided that all such notices as aforesaid shall be sent by the General Post Office instead of being left or delivered as aforesaid if the owner or registering person or managers or his or their agent or overseer or herdsman shall in writing require the poundkeeper so to do.

Fourth Schedule.

18. Every poundkeeper may lawfully demand and receive for his own use from every owner of such cattle or person or managers registering his or their brands for every notice in writing of cattle impounded as aforesaid sent to the owner of any cattle impounded or registering person or managers or his or their agent or overseer or herdsman as by this Act required where the said owner person managers agent overseer or herdsman shall reside or have an office within ten miles of the said pound for writing and sending the same the sum of one shilling for each mile of such distance travelled in proceeding to the residence or office of such owner person managers agent overseer or herdsman and for every such notice sent by the General Post Office where the same is by this Act required so to be sent the sum of two shillings and sixpence and for inserting any notice in the *Government Gazette* where the same is by this Act required to be inserted the

Fees for sending notices of impounding.

actual

actual cost of such insertion over and above the charge for sending the same to the post office as hereinbefore mentioned. Provided that only one notice shall be charged for any number of cattle belonging to the same owner and impounded at the same time.

Certain poundkeepers to give security.

19. Previously to the appointment of any poundkeeper by a court of petty sessions such court shall require the person so to be appointed poundkeeper to enter into a bond or recognizance to Her Majesty with sufficient sureties in such amount as such court may deem advisable conditioned that such poundkeeper shall well and truly perform the duties of such poundkeeper and shall well and truly account for and pay over all fees or moneys received by him in such capacity as is by this Act directed.

Penalty on neglect of duty on part of poundkeeper.

20. If any poundkeeper shall take or demand any greater sum for the impounding of any cattle or for pound fees or fees for damage or for sustenance or for doing any other matter or thing than such poundkeeper is authorised by this Act or by the court of petty sessions or the council of a shire or borough respectively to take or demand or shall fail to pay to the person impounding any cattle any damages he may have received from the owner of such cattle on account of any such impounding or shall neglect or fail to provide proper and sufficient sustenance for any cattle impounded or to take due care thereof respectively or shall ride or use any cattle or if the keeper of any pound shall fail to comply with or shall offend against any of the provisions of this Act or otherwise misconduct himself as such poundkeeper every such person so offending shall on conviction forfeit and pay a penalty not exceeding fifty pounds and (if he be the poundkeeper of a pound situated outside the limits of any shire or borough) he shall at the discretion of the justices before whom any such conviction shall take place be removed from his office of poundkeeper.

Cattle not released to be sold by auction at the pound.

21. Where any impounded cattle (the damages claimed or the nature of trespass or the legality of the impounding not being in dispute in manner hereinafter referred to) shall not have been released from the pound by the owner thereof or by some one on his behalf within seven days after notice has been given to the owner registering person agent or overseer by delivering to him personally or by leaving the same at his usual place of abode or by dispatching the same through the General Post Office at the request in writing of such owner registering person agent or overseer as hereinbefore provided or within twenty-one days after the notice shall have been dispatched through the General Post Office or inserted in the *Government Gazette* as the case may require which periods of seven days and twenty-one days respectively shall be reckoned exclusively of the day upon which the said notice shall have been delivered or dispatched or inserted it shall be lawful for the said poundkeeper to sell all such impounded cattle by public auction. Provided that no such sale shall be made or take place excepting on such days as shall from time to time be appointed by the Governor in Council for all or for one or more of the public pounds and proclaimed

proclaimed in the *Government Gazette* such days being in all cases after the expiration of the notices respectively herein required to be given or sent and the poundkeeper shall at such sales act as auctioneer and all such sales shall take place at the public pound where the said cattle shall have been impounded and shall commence at the hour of noon and not more than ten head of sheep or five pigs or goats shall be put up in any one lot and not more than one horse or one head of any other cattle and the keeper of the pound shall neither personally nor by any other person either directly or indirectly purchase any of the said cattle and every person offending herein shall on conviction forfeit and pay for every such purchase contrary to the true intent and meaning hereof any sum not exceeding fifty pounds. Provided that when any cattle shall have been purchased by the person impounding the same such cattle shall be retained by such person and carefully preserved (unavoidable accidents only excepted) for a period not exceeding six months and the owner of the same cattle at any time during such period may claim and receive the said cattle from such person upon payment of the sum paid by him and a further sum at the rate of ten pounds per centum per annum on such sum so paid for any such cattle during the time between the purchase thereof and such claim being made.

22. It shall be lawful for every poundkeeper appointed under this Act to receive the price of any impounded cattle which shall be sold under and by virtue hereof and subject to such regulations as shall from time to time be made by the Governor in Council to apply the same first in the payment of all lawful fees rates and other authorised charges next in payment of the sum due to the person at whose instance the cattle were impounded and the residue he shall pay to such receiver of revenue as shall be appointed by the Treasurer of Victoria to receive the same, and the said residue shall be placed to the credit of "The Trust Fund" or (if the pound at which the cattle so sold were impounded be situated within the limits of a shire or within the limits of a borough) the poundkeeper shall pay the said residue to the shire fund of such shire or to the borough fund of such borough (as the case may be) and such residue shall be held for the period hereinafter mentioned by the Government of Victoria and by the council of every shire and the council of every borough respectively in trust for the person entitled thereto and every such person may within the period next mentioned demand and receive and recover such residue upon giving such proof as may be required by regulations to be made in that behalf by the Governor in Council. In case no claim to such residue shall be duly made within six years next after the same shall have been so paid such residue shall be carried to and shall form part of the consolidated revenue or of the shire fund or borough fund of such shire or borough respectively (as the case may be) but no time during which the person entitled to receive such residue shall have been an infant or feme covert or of unsound mind or beyond the seas shall be taken into account in estimating the said period of six years.

Appropriation of proceeds of sale of cattle not released,

If sale of cattle does not realise fees the impounding party liable for deficiency.

23. If the proceeds of any cattle impounded by any person or his overseer for trespassing and doing damage upon the lands of such person and sold under and by virtue of this Act shall be insufficient to satisfy the lawful fees rates and charges as aforesaid respecting the same the residue of such fees rates and charges shall be paid to such poundkeeper by the person who impounded the said cattle and upon refusal so to do by any person so impounding the court of petty sessions may upon complaint of such poundkeeper and satisfying themselves of the correctness thereof issue their warrant and recover the amount of any such deficiency by distress and sale of the goods and chattels of any person so failing to pay the residue of such fees and charges.

Cattle trespassing may be taken home and legal rates demanded for damages.

24. It shall be lawful for the person entitled to impound to send any cattle found trespassing to their owner or his known agent or overseer and to demand payment of the amount of damage done according to the rate fixed as aforesaid in reference to the nature of the trespass and thereupon such owner or his agent or overseer shall and he is hereby required to pay the same as and for a satisfaction of the said trespass and if the owner of any such cattle or some person on his behalf shall not pay the amount of such fixed rate of damage upon the same being demanded the party aggrieved by such trespass may instead of impounding the cattle make his complaint to the court of petty sessions and such court shall summon the owner of any cattle so having trespassed and summarily enquire into and hear and determine upon the matter of such complaint and upon satisfactory proof that such cattle had trespassed as alleged and of the neglect or refusal of the owner to pay the damages claimed shall and may order and award that the damages so claimed be immediately paid and upon neglect or refusal to obey such order issue their warrant to levy the same together with such costs as to the said court shall appear just and reasonable.

Where damages or impounding disputed cattle to be given up but poundkeeper to keep damages until justices decide.

25. In case any cattle shall be impounded and a larger amount of damages claimed than the damages authorised by this Act and the owner of such cattle shall dispute the amount of such damages or the identity of the cattle or the nature of the trespass committed by such cattle or shall deny the legality of such impounding then and in any such case such owner may allow the cattle to remain in such pound until the case shall be decided as hereinafter provided or otherwise pay the damages demanded with the authorised pound fees and release the said cattle, giving at the same time notice in writing to the poundkeeper that he intends to appeal against such damages or impounding as the case may be and upon the receipt of any such notice such poundkeeper shall not pay over to the impounding party such damages, but keep the same in his possession until the decision of the court of petty sessions shall be given as hereinafter provided.

Court of petty sessions to enquire into and decide upon damages or legality of impounding.

26. The owner of the cattle so impounded where the impounding identity trespass or damages shall be disputed as aforesaid may within one month after the giving of the notice in writing as aforesaid make his complaint to the court of petty sessions and such court shall summarily

marily enquire into hear and determine such complaint and upon satisfactory proof of such trespass and of the injury done or damages sustained or of the legality of the impounding respectively shall order and award that the damages so claimed are legal and proper and thereupon if the cattle so impounded shall have continued in the pound the same course shall be observed in regard to their detention sale and other matters as if they had been impounded under ordinary circumstances and in case the owner shall have released the said cattle by payment of the damages and fees the poundkeeper shall hand over to the person impounding the amount of damages he has so received but if it shall appear to the said court that such impounding was illegal or that the damages claimed were excessive then such court shall order accordingly and shall assess the amount of compensation for loss of time labor additional pound fees or otherwise which the owner of such cattle so impounded illegally or upon which such excessive damages may have been claimed shall be entitled to in consequence of any such illegal impounding or claim of excessive damages and such owner shall receive back the balance of any moneys paid by him to the poundkeeper after deduction of pound fees and sustenance fees and if such cattle shall remain in the pound at the time of such decision such court may by an order direct the poundkeeper to release such cattle on payment of the pound fees and fees of sustenance without payment of the damages claimed which order shall be a sufficient authority for such poundkeeper to release such cattle accordingly and all pound fees and fees for sustenance may in any such case be recovered by the owner from the person impounding.

27. If any person shall rescue or incite or assist any person to rescue any cattle which shall have been lawfully seized for the purpose of being impounded or shall break down injure or destroy any pound legally constituted whether any cattle shall be impounded therein or not or shall commit any pound breach or rescue whereby any cattle of any description shall escape or be enlarged from any such pound or shall rescue or attempt to rescue or in any manner interfere with any cattle which may have been impounded and then in the charge or custody of any poundkeeper every such person shall upon conviction forfeit and pay a penalty not exceeding fifty pounds or be liable to be imprisoned for a term not exceeding six months.

Rescuing cattle or committing pound breach a misdemeanor.

28. Any poundkeeper may send any cattle which may have been impounded out of such pound at such times and to such places as he may see fit for the purpose of feeding grazing or watering any such cattle. Provided all such cattle shall be placed in some secure yard or other enclosure each night and that such cattle shall not be taken more than six miles from any such pound and every poundkeeper so allowing any such cattle to leave such pound shall be personally responsible for the value of any such cattle if any of them be lost or not forthcoming in consequence of such cattle being so allowed to leave such pound without reasonable guard or security.

Poundkeeper may take cattle out of pound to feed or water.

29. It

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

29. It shall not be lawful for any person to drive any cattle from the land and out of the herds of any other person without first giving notice to such last-mentioned person his overseer or bailiff of the time he intends to drive away such cattle and 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 cattle or shall attempt to drive any cattle without giving such notice or who shall drive away any cattle other than his own or his master's or employer's from the land and out of the herds of any other person shall on conviction of every such offence forfeit and pay the sum of twenty pounds and shall and may be apprehended on the spot by the owner or agent or other authorised person of such owner and taken before the nearest justice to be dealt with accordingly.

Owners of entire horses and bulls trespassing to pay ten pounds or five pounds damages.

30. The owner of any entire horse or bull above the age of one year which may be impounded or detained under the provisions of this Act shall be liable to pay by way of damages for every such horse the sum of ten pounds and for every such bull the sum of five pounds to the party impounding such animal besides all the legally authorised poundage fees and if the owner or other authorised person shall not release any such animal and such animal shall not realise at the pound-keeper's sale sufficient to pay the said sums of ten or five pounds respectively besides the poundage fees as authorised by this Act such owner shall pay the balance to such impounding party to be recovered as is hereinbefore provided in regard to the animals impounded but not realising the poundage fees thereon.

Goats may be destroyed.

31. It shall be lawful for the owner occupier or person in charge of securely enclosed lands to destroy any goats found trespassing thereon.

Occupants of Crown lands may impound.

32. Except where it is or shall be by some law now or hereafter in force otherwise expressly enacted any person in occupation of land by lease license or other authority granted by or on behalf of the Crown is hereby empowered to impound any cattle trespassing thereon. Provided that it shall not be lawful for any occupier of any such land through which any public road or thoroughfare may pass (such land not being enclosed) to impound the cattle of any person who may be travelling along or through any such road or who may stop upon such land during one night or day for necessary rest. Provided that such cattle shall not be at a greater distance from the centre of such road or thoroughfare than one-half of a mile, and that no such cattle shall be affected with either of the diseases known as catarrh or scab.

This Act not to prevent actions for special damages.

33. Nothing herein contained shall extend or be construed to prevent the owner of any lands trespassed upon from waiving the ordinary damages estimated assessed and allowed in manner required by this Act and claiming in any competent court full satisfaction for any special damage sustained by him in consequence of any trespass. Provided that if the plaintiff in any suit or action for such special damages shall not after waiving the ordinary damages recover more than the amount of such ordinary damages then he shall not be entitled to

or

or recover the costs of the said suit or action from the defendant in the same but the said defendant shall be entitled to and recover from the plaintiff the costs incurred by the said defendant.

34. Whenever any fine penalty or forfeiture shall have been imposed under the provisions of this Act or any damages or compensation awarded and the person convicted or ordered to pay such damages or compensation shall not forthwith pay the same it shall be lawful for the adjudicating justices to order that the same be levied by distress and sale of the goods and chattels of such offender or in default of such distress or in the discretion of such justices without ordering any such distress to direct that such person be imprisoned in any gaol in Victoria with or without hard labor as they shall think fit for a period not exceeding two months if the penalty damage or compensation shall not exceed ten pounds and for a period not exceeding four months if the penalty damage or compensation be above ten pounds and not exceeding twenty pounds and for a period not exceeding six months if the penalty damage or compensation be above twenty pounds and such person shall be detained accordingly unless such respective penalties damages compensations and costs shall be sooner paid.

Imprisonment in default of payment of penalties.

35. All offences under this Act shall and may be heard and determined in a summary way before any two or more justices and no proceedings under this Act shall be removed by *certiorari* into the Supreme Court.

Proceedings to be in a summary way no *certiorari*.

36. Any judgment or conviction duly made under this Act shall and may be pleaded in bar of any suit action or information which shall be commenced instituted or prosecuted for such and the same cause or offence in any other court whatsoever.

Conviction under this Act bar to other proceedings.

37. All fines penalties and forfeitures which shall be levied or paid under this Act shall go and be distributed one-half thereof to the informer or person prosecuting for the same and the other half to the consolidated revenue if the place where the fine penalty or forfeiture is imposed or ordered be outside the limits of any shire or borough and if such place be within the limits of a shire or borough such last-mentioned moiety shall belong to the council of such shire or borough and shall be paid to the shire fund or borough fund of such shire or borough respectively as the case may be.

Appropriation of penalties.

SCHEDULES.

SCHEDULE I.

Section 2.

Date of Act.	Title of Act.	Extent of Repeal.
18 Vict. No. 30	"An Act to amend the law relating to "the Impounding of Cattle"	The whole.
27 Vict. No. 176	"An Act to establish Road Districts and "Shires and generally to provide for "the administration of local affairs "without the limits of boroughs"	Section 318.
26 Vict. No. 184	"An Act to consolidate and amend "the laws relating to Municipal "Institutions"	Section 355 and so much of section 370 as enacts that for the purposes of so much of the said Act No. 184 as is included under the heading "Pounds" the city of Melbourne and town of Geelong shall be and be deemed to be boroughs in terms of the said Act.

SCHEDULE II.

Section 10.

TABLES of Rates to be charged for trespass of Cattle and the sustenance thereof whilst impounded in the Pound under the provisions of the "Pounds Statute 1865."

Fixed by the Justices in Petty Sessions assembled at
of the shire of _____ or of the borough of _____] on the
day of _____ 186 . [or by the Council

Description of Cattle trespassing.	In any forest or open pasture land open stubble after grass or other unenclosed land.	In any paddock of grass enclosed by a good and substantial fence.	In any garden uncut meadow or growing crop of any kind enclosed by a good substantial fence.	Amount to be charged daily for sustenance whilst impounded.
	£ s. d.	£ s. d.	£ s. d.	
For every horse mare gelding colt filly ass mule bull cow ox heifer steer calf ...				
For every ram ewe sheep or lamb ...				
For every goat ...				
For every pig ...				

(Signed)

By order of the Justices
Clerk of Petty Sessions.

or by order of the Council

Clerk or Town Clerk.

Allowed by His Excellency the Governor in Council.

Chief Secretary.
SCHEDULE III.

